THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), May 28, 2009

Senate called to order at 12:39 p.m.
President Krolicki presiding.
Roll called.
All present.
Prayer by the Chaplain, Donald Thayer.

O my God! O my God! Unite the hearts of thy servants and reveal to them thy great purpose. May they follow thy commandments and abide in thy law. Help them, O God, in their endeavor, and grant them strength to serve thee. O God, leave them not to themselves, but guide their steps by the light of thy knowledge, and cheer their hearts by thy love. Verily, thou art their helper and their Lord.

BAHA'U'LLAH

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 148, 229, 430, 523, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 434; Assembly Bills Nos. 92, 555, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Assembly Bill No. 207, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Finance, to which was referred Senate Bill No. 143, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 461, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 26, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD
Legislative Building, Nevada, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 319 to the 75th Session of the Nevada Legislature accompanied by my letter of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 26, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD
Legislative Building, Nevada, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 394 to the 75th Session of the Nevada Legislature accompanied by my letter of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 26, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 892 to Assembly Bill No. 3; Senate Amendment No. 757 to Assembly Joint Resolution No. 5.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 787 to Assembly Bill No. 60.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 918 to Assembly Bill No. 218 and respectfully refused to concur in Senate Amendments Nos. 933, 931 to Assembly Bill No. 218.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 27, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 188, Amendment No. 910, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendments Nos. 798, 882 to Assembly Bill No. 478; Senate Amendment No. 710 to Assembly Bill No. 483.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 615 to Assembly Bill No. 52; Senate Amendment No. 773 to Assembly Bill No. 84.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 923 to Assembly Bill No. 130 and respectfully refused to concur in Senate Amendment No. 792 to Assembly Bill No. 130.

I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 119, Assembly Amendments Nos. 777, 936, and requests a conference, and appointed Assemblymen Horne, Anderson and Settelmeyer as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 246, Assembly Amendments Nos. 743, 802, 843, and requests a conference, and appointed Assemblymen Hogan, Spiegel and Woodbury as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 295, Assembly Amendment No. 932, and requests a conference, and appointed Assemblymen Atkinson, McClain and Gansert as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Ohrenschall, Hambrick and Parnell as a Conference Committee concerning Assembly Bill No. 46.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Dondero Loop and Carpenter as a Conference Committee concerning Assembly Bill No. 259.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Segerblom, Kihuen and Hambrick as a Conference Committee concerning Assembly Bill No. 350.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: LAS VEGAS REVIEW JOURNAL: Jason Bean and THE NEVADA SAGEBRUSH: James L. Balagna.

Motion carried.

Senator Care moved that Senate Bill No. 354 be taken from Unfinished Business File and placed on Unfinished Business File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 522.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 967.

"SUMMARY—Makes various changes relating to energy. (BDR 58-1139)"

"AN ACT relating to energy; creating the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs; authorizing the Director of the Department of Energy to administer the Fund; authorizing the granting of partial abatements of certain property taxes and local sales and use taxes to certain facilities for the generation of process heat from solar renewable energy, wholesale facilities for the generation of electricity from renewable energy *, facilities for the generation of electricity from geothermal resources* and facilities for the transmission of electricity produced from renewable energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1.1-1.8 of this bill establish the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs. The Director of the Office of Energy administers the Fund. The Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act and to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects. The Director is prohibited from committing any money in the Fund for expenditure ~~[or establishing the priorities for determining which renewable energy systems will receive money or other assistance from the Fund]~~ without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Section 28 of this bill authorizes the Nevada Energy Commissioner appointed pursuant to section ~~[1.85 of this bill]~~ *1.21 of Senate Bill No. 358 of this session* to grant partial abatements of property taxes and local sales and use taxes to certain facilities for the generation of process heat from solar renewable energy, wholesale facilities for the generation of electricity from renewable energy *, facilities for the generation of electricity from geothermal resources* and facilities for the transmission of electricity produced from renewable energy. These abatements will cease to be effective in 40 years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.95, inclusive, of this act.

Sec. 1.1. *As used in sections 1.1 to 1.8, inclusive, of this act, the words and terms defined in sections 1.15 to 1.45, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 1.15. *"American Recovery and Reinvestment Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5.*

Sec. 1.2. *"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a project and the inspection and supervision of such activities and includes, without limitation:*

1. Any preliminary planning to determine the feasibility of a project;

2. Engineering, architectural, legal, environmental, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications or procedures that comply with the provisions of the American Recovery and Reinvestment Act and any regulations adopted pursuant thereto; and

3. Any other activities reasonably necessary to the completion of a project.

Sec. 1.3. *"Federal grant" means money authorized by the American Recovery and Reinvestment Act to:*

1. Create a revolving loan fund to assist in the financing of the construction of renewable energy projects; or

2. Fund set-aside programs authorized by the American Recovery and Reinvestment Act.

Sec. 1.4. *"Fund" means the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans created by section 1.5 of this act.*

Sec. 1.45. *"Renewable energy system" has the meaning ascribed to it in NRS 704.7815.*

Sec. 1.5. *1. The Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created. The Director shall administer the Fund.*

2. The account to fund activities, other than projects, authorized by the American Recovery and Reinvestment Act, to be known as the Account for Set-Aside Programs, is hereby created in the Fund for the Municipal Bond Bank.

3. The money in the Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act.

4. All claims against the Fund and the Account for Set-Aside Programs must be paid as other claims against the State are paid.

5. The faith of the State is hereby pledged that the money in the Account for the Revolving Fund and the Account for Set-Aside Programs will not be used for purposes other than those authorized by the American Recovery and Reinvestment Act.

Sec. 1.6. *1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.*

2. All payments of principal and interest on all loans made to a renewable energy system and all proceeds from the sale, refunding or prepayment of obligations of a renewable energy system acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit renewable energy systems not governmentally owned.

Sec. 1.7. *1. The Director shall:*

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether renewable energy systems which receive money or other assistance from the Fund or the Account for Set-Aside Programs comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

3. The Director shall not ~~*[:*~~

~~*[(a) Commit]*~~ *commit any money in the Fund for expenditure for the purposes set forth in section 1.75 of this act* ~~*[; or*~~

~~*[(b) Establish the priorities for determining which renewable energy systems will receive money or other assistance from the Fund,*~~

~~*]*~~ *without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.*

Sec. 1.75. *1. Except as otherwise provided in section 1.6 of this act, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to*

make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A renewable energy system which requests a loan or other financial assistance must demonstrate that it has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that it has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to an existing renewable energy system unless it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. A new renewable energy system, to receive such funding, must demonstrate that it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

Sec. 1.8. *The Director may adopt such regulations as are necessary to carry out the provisions of sections 1.1 to 1.8, inclusive, of this act.*

Sec. 1.85. ~~[*1. The Governor shall appoint the Nevada Energy Commissioner, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.*~~

~~*2. The Commissioner:*~~

~~*(a) Is in the unclassified service of the State;*~~

~~*(b) Serves at the pleasure of the Governor; and*~~

~~*(c) Must have experience and demonstrated expertise in one or more of the following fields:*~~

~~*(1) Financing of energy projects;*~~

~~*(2) Energy generation projects;*~~

~~*(3) Energy transmission projects;*~~

~~*(4) Professional engineering related to energy efficiency; or*~~

~~*(5) Renewable energy.*~~

~~*3. The Commissioner may, within the limits of legislative appropriations or authorizations:*~~

~~*(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties may require;*~~

~~*(b) Employ, or retain on a contract basis, legal counsel who shall:*~~

~~*(1) Act as counsel and attorney for the Commissioner in all actions, proceedings and hearings; and*~~

~~*(2) Generally aid the Commissioner in the performance of his duties; and*~~

~~*(c) Employ such additional personnel as may be required to carry out his duties, who must be in the classified service of the State.*~~

~~*4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.*~~

~~*5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.]*~~ *(Deleted by amendment.)*

Sec. 1.9. ~~[*The Nevada Energy Commissioner shall:*~~

~~*1. Utilize all available public and private means to:*~~

~~*(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and*~~

~~*(b) Work with educational and research institutes, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.*~~

~~*2. Encourage the development of any sources of renewable energy and any other energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy by, without limitation:*~~

~~*(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:*~~

~~*(1) Assessments of solar, wind and geothermal potential;*~~

~~*(2) Evaluations of natural resource constraints;*~~

~~*(3) Current electric transmission infrastructure and capacity; and*~~

~~*(4) The feasibility of the construction of new electric transmission lines;*~~

~~*(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interface with the Bureau of Land Management, the Department of Defense and other federal agencies in:*~~

~~*(1) Expediting land leases;*~~

~~*(2) Resolving site issues; and*~~

~~*(3) Receiving permits for projects on public lands within the appropriate areas of this State;*~~

~~*(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable energy systems that create a reliable source of energy and maximize use of current or future transmission lines and infrastructure; and*~~

~~*(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.*~~

~~*3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of the geothermal energy resources in this State.*~~

~~*4. If the Commissioner determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:*~~

~~*(a) To conduct environmental studies in connection with the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and*~~

~~*(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.*~~

~~*5. Cooperate with the Director:*~~

~~*(a) To promote energy projects that enhance the economic development of the State;*~~

~~*(b) To promote the use of renewable energy in this State;*~~

~~*(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;*~~

~~*(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and*~~

~~*(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).*~~

~~*6. Coordinate activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada in general and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.*~~

~~*7. Carry out all other directives concerning energy that are prescribed by the Legislature.]*~~ *(Deleted by amendment.)*

Sec. 1.95. ~~[*The Commissioner may:*~~

~~*1. Administer any gifts or grants which he is authorized to accept.*~~

~~*2. Expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.*~~

~~*3. Enter into any cooperative agreement with any federal or state agency or political subdivision.*~~

~~*4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to such a program.*~~

~~*5. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.*~~

~~*6. Adopt any regulations that the Commissioner determines are necessary to carry out his duties.*~~

~~*7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner.]~~ *(Deleted by amendment.)*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 27.5. Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 28 and 28.5 of this act.

Sec. 28. *1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy* , *a facility for the generation*

of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. ~~[A person who intends to locate a facility for the generation of electricity from geothermal resources in this State may apply to the Director for a partial abatement of local sales and use taxes.]~~ A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. ~~[The]~~ Except as otherwise provided in subsection 4, the Commissioner shall approve an application for a partial abatement pursuant to this section if the Commissioner makes the following determinations:

(a) The applicant has executed an agreement with the Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 6, continue in operation in this State for a period specified by the Commissioner, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the

Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

4. The Commissioner shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to subsection 2 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

5. Notwithstanding the provisions of subsection ~~[2,]~~ 3, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3; or

(b) ~~[Make the requirements set forth in paragraph (d) or (e) of subsection 3 more stringent; or~~

~~(c)]~~ Add additional requirements that a facility must meet to qualify for a partial abatement.

~~[5.]~~ 6. If the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the ~~[2]~~ 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds ~~[0.5]~~ 0.6 percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~[2.5]~~ 2.6 percent.

~~[6.]~~ 7. Upon approving an application for a partial abatement pursuant to this section, the Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

~~[7.]~~ 8. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

~~[8.]~~ 9. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements. The Commissioner shall immediately

provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

~~*[9.]*~~ *10. The Commissioner:*

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

~~*[10.]*~~ *11. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:*

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) ~~*[For the period beginning on July 1, 2009, and ending on June 30, 2011:*~~

~~*(I)]*~~ *Forty-five percent of that amount is deposited in the unrestricted balance of the State General Fund; and*

~~*[(II)]*~~ *(2) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.* ~~*[; and*~~

~~*(2) For the period beginning on July 1, 2011, and ending on June 30, 2049:*~~

~~*(I) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by section 28.5 of this act; and*~~

~~*(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.]*~~

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

~~*[11.]*~~ *12. As used in this section:*

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section ~~[1.85]~~ 1.21 of Senate Bill No. 358 of this ~~[act.]~~ session.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 megawatts.

➥ *The term does not include a facility that is located on residential property.*

(e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least ~~[12,920,000]~~ 25,840,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

(g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

➥ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.*

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 28.5. *The Renewable Energy Fund is hereby created. The Nevada Energy Commissioner appointed pursuant to section ~~[1.85]~~ 1.21 of Senate Bill No. 358 of this ~~[act]~~ session shall administer the Fund. The interest and income earned on the money in the fund must be credited to the fund. ~~[The]~~ Not less than 75 percent of the money in the fund must be used ~~[primarily to defer the rate of the utility to the consumer or otherwise]~~ to offset the cost of electricity ~~[and natural gas]~~ to retail customers ~~[.]~~ of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821. The Nevada Energy Commissioner may establish other uses of the money in the Fund by regulation.*

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

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Sec. 91. (Deleted by amendment.)
Sec. 92. (Deleted by amendment.)
Sec. 93. (Deleted by amendment.)
Sec. 94. (Deleted by amendment.)
Sec. 95. (Deleted by amendment.)

Sec. 96. (Deleted by amendment.)
Sec. 97. (Deleted by amendment.)
Sec. 98. (Deleted by amendment.)
Sec. 99. (Deleted by amendment.)
Sec. 100. (Deleted by amendment.)
Sec. 101. (Deleted by amendment.)
Sec. 102. (Deleted by amendment.)
Sec. 103. (Deleted by amendment.)
Sec. 104. (Deleted by amendment.)
Sec. 105. (Deleted by amendment.)
Sec. 106. (Deleted by amendment.)

Sec. 106.5. *Section 28 of this act is hereby amended to read as follows:*

Sec. 28. 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy , a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. Except as otherwise provided in subsection 4, the Commissioner shall approve an application for a partial abatement pursuant to this section if the Commissioner makes the following determinations:

(a) The applicant has executed an agreement with the Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 6, continue in operation in this State for a period specified by the Commissioner, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

4. The Commissioner shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to subsection 2 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise

necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

5. Notwithstanding the provisions of subsection 3, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

6. If the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds ~~[0.6]~~ *0.25* percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~[2.6]~~ *2.25* percent.

7. Upon approving an application for a partial abatement pursuant to this section, the Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

8. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

9. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements. The Commissioner shall immediately provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

10. The Commissioner:

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be

necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

11. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) Forty-five percent of that amount is deposited in the ~~[unrestricted balance of the State General Fund;]~~ *Renewable Energy Fund created by section 28.5 of this act;* and

(2) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

12. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section 1.21 of Senate Bill No. 358 of this session.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 megawatts.

➥ The term does not include a facility that is located on residential property.

(e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least 25,840,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

(g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 106.7. *Section 1.21 of Senate Bill No. 358 of this session is hereby amended to read as follows:*

Sec. 1.21. *1. The Governor shall appoint the Nevada Energy Commissioner as the head of the Authority* *. ~~[, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.]~~*

2. The Commissioner:

(a) Is in the unclassified service of the State;

(b) Serves at the pleasure of the Governor; and

(c) Must have experience and demonstrated expertise in one or more of the following fields:

(1) Financing of energy projects;

(2) Energy generation projects;

(3) Energy transmission projects;

(4) Professional engineering related to energy efficiency; or

(5) Renewable energy.

3. The Commissioner may, within the limits of legislative appropriations or authorizations:

(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties and the operation of the Authority may require;

(b) Employ, or retain on a contract basis, legal counsel who shall:

(1) Be counsel and attorney for the Commissioner and the Authority in all actions, proceedings and hearings; and

(2) Generally aid the Authority in the performance of its duties; and

(c) Employ such additional personnel as may be required to carry out the duties of the Authority, who must be in the classified service of the State.

4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.

5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.

Sec. 106.9. Section 1.35 of Senate Bill No. 358 of this session is hereby amended to read as follows:

Sec. 1.35. *1. The New Energy Industry Task Force is hereby created.*

2. The Task Force consists of the Commissioner and the following eight members who must be appointed by the Commissioner : ~~[subject to the review and approval of the appointments by the Legislature, or the Legislative Commission if the Legislature is not in session:]~~

(a) A representative of the large-scale solar energy industry in this State;

(b) A representative of the geothermal energy industry in this State;

(c) A representative of the wind energy industry in this State;

(d) A representative of the distributed generation industry, energy efficiency equipment and installation industry or manufacturers of equipment for renewable energy power plants in this State;

(e) A representative of an electric utility in this State;

(f) A representative of an organization in this State that advocates on behalf of environmental or public lands issues who has expertise in or knowledge of environmental or public lands issues;

(g) A representative of a labor organization in this State; and

(h) A representative of an organization that represents contractors in this State.

Sec. 107. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 107.5. 1. The Nevada Energy Commissioner appointed pursuant to section 1.21 of Senate Bill No. 358 of this session shall propose a budget for his office and the Renewable Energy and Energy Efficiency Authority created by section 1.19 of Senate Bill No. 358 of this session for the 2009-2011 biennium to the Interim Finance Committee. The Committee:

(a) Shall make any changes it deems appropriate;

(b) Shall approve the budget; and

(c) May require the Public Utilities Commission of Nevada to transfer not more than $500,000 from its reserve account in the Public Utilities Commission Regulatory Fund created by NRS 703.147, to an account in the State General Fund for use by the Commissioner in a manner authorized in the budget approved pursuant to this subsection.

2. Not later than 10 days after the Interim Finance Committee approves the budget pursuant to subsection 1, the Public Utilities Commission of Nevada shall make any transfer required pursuant to paragraph (c) of subsection 1.

3. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money up to 3 percent of the money received to be used by the Nevada Energy Commissioner and the Renewable Energy and Energy Efficiency Authority in the manner authorized in the budget approved pursuant to subsection 1.

4. The Interim Finance Committee may allocate money in the reserve account in the Public Utilities Commission Regulatory Fund created by NRS 703.147 in addition to the amount authorized by paragraph (c) of subsection 1 if the Interim Finance Committee determines that additional money is necessary to fund the budget of the Nevada Energy Commissioner or the Renewable Energy and Energy Efficiency Authority during the 2009-2011 biennium. Any money so allocated is hereby authorized for expenditure by the Nevada Energy Commissioner.

Sec. 108. Notwithstanding the provisions of ~~[section]~~ *sections* 28 *and 106.5* of this act, a person is not entitled to any partial abatement of taxes pursuant to ~~[that section]~~ *those sections* after June 30, 2049.

Sec. 109. (Deleted by amendment.)

Sec. 109.5. *Sections 11.7 and 20.8 of Senate Bill No. 358 of this session are hereby repealed.*

Sec. 110. 1. This section and sections *106.7, 106.9, 107.5 and 109.5 of this act become effective upon passage and approval.*

2. *Sections* 1 to 1.8, inclusive, 27.5, 28, 28.5, 107, 108 and 109 of this act become effective on July 1, 2009.

~~[2.]~~ *3.* Sections 1.85, 1.9 and 1.95 of this act become effective on July 1, 2009, if and only if no other bill passed during the 2009 Legislative Session becomes effective that provides for the appointment, powers and duties of the Nevada Energy Commissioner.

~~[3.]~~ *4.* *Section 106. of this act becomes effective on July 1, 2011.*

5. Sections 28 , ~~[and]~~ 28.5 *and 106.5* of this act expire by limitation on June 30, 2049.

TEXT OF REPEALED SECTIONS

Section 11.7 of Senate Bill No. 358 of this session:

Sec. 11.7. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection 6, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and 4, the annual assessment must be:

(a) For the use of the Commission, not more than ~~[3.50]~~ *2.50* mills; ~~[and]~~

(b) For the use of the Consumer's Advocate, not more than 0.75 mills ~~[.]~~ *;*

(c) For the use of the Renewable Energy and Energy Efficiency Authority, not more 0.925 mills; and

(d) For the use of the Office of Energy, not more than 0.075 mills,

➥ on each dollar of gross operating revenue derived from the intrastate operations of such utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy ~~[for]~~ *:*

(a) For the use of the Consumer's Advocate must not be assessed against railroads ~~[.]~~ *;*

(b) For the use of the Renewable Energy and Energy Efficiency Authority must be assessed only against utilities that provide electricity or natural gas in this State; and

(c) For the use of the Office of Energy must be assessed only against utilities that provide electricity or natural gas in this State.

4. The minimum assessment in any 1 year must be $100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telecommunication providers, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

6. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of $200.

7. The amount of the annual assessment which the Commission must levy and collect for the use of the Renewable Energy and Energy Efficiency Authority pursuant to paragraph (c) of subsection 2 and the Office of Energy pursuant to paragraph (d) of subsection 2 must be determined by:

(a) The Legislature if the Legislature is in session; or

(b) The Interim Finance Committee if the Legislature is not in session.

Section 20.8 of Senate Bill No. 358 of this session:

Sec. 20.8. For the period beginning July 1, 2009, and ending June 30, 2010, the Public Utilities Commission of Nevada shall levy and collect from utilities that provide electricity or natural gas in this State the annual assessment described in NRS 704.033, as amended by section 11.7 of this act, that must be:

1. For the use of the Renewable Energy and Energy Efficiency Authority, 0.21 mills; and

2. For the use of the Office of Energy, 0.07 mills,

➥ unless the Legislature or the Interim Finance Committee establishes a different amount on or before June 15, 2009.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Care and McGinness.

Senator Townsend requested that the following remarks be entered in the Journal.

SENATOR TOWNSEND:

Thank you, Mr. President. This amendment does three basic things. First, it addresses two components in Senate Bill No. 358. One is the legislative confirmation of the appointment of the new Energy Commissioner. It removes that. Upon passage of this bill, it would supersede that which is already in Senate Bill No. 358. It also changes the funding mechanism for the new authority that was granted in the previous bill. This bill would take away the increase of the Mill Tax paid by all consumers and would fund the new office with money that would be taken from the reserve account of the Public Utilities Commission and a portion of the recovery funds that are being sent to the states. There is a set-aside for that. That will be overseen by the Interim Finance Committee upon the new authority's presentation of a budget therein.

Second is that portion on pages 9 and 10 that addresses geothermal. Geothermal was never given equal status in our statutes with solar, wind and other renewable-energy sources. That is being done in this bill. In order to accommodate the concerns of our rural counties, they have been provided a portion in pages 9 and 10 that says, "Upon an application for development of a geothermal resource that the county must act on it, either accept it or deny it, within 30 days." They must not interfere with the contract for development by adding any extraneous measures to the development agreement that are not directly tied to the development, construction and operation of the geothermal facility.

SENATOR CARE:

I am reminded of what we went through last Session with abatements. It is not always easy to estimate the translation into dollar amounts. Could we discuss LEED from the previous Sessions? What safeguards are contained in here to offer us assurances?

SENATOR TOWNSEND:

One of the provisions in here is on pages 9 and 10. It gives the county the option to review the project and to analyze the potential abatement impacts on local government and on school districts. At that point, the county can make a determination with input from the school districts. We have tried to adjust those rates that are also in the bill so that the portion of the sales-tax component known as LSST is protected, and so that we do the least amount of damage to the school districts as possible. We have tried to come up with the safeguards your question addressed. On page 10, we have extended for sales-and-use tax abatements from two to three years. The reason we did that is because some of these projects take longer than two years to complete. This is an extension, but the protections are there based on my previous statements.

SENATOR MCGINNESS:

Thank you, Mr. President. I appreciate the Senator from Washoe District 4 trying to help the rural counties. Often the gold mines are the only economic development we see in rural Nevada.

On page 10, it says, "The property taxes imposed pursuant to Chapter 361 of NRS, partial abatement must be for a duration of 20 fiscal years, be equal to 55 percent of the taxes." On line 35 it says, "Sales tax will be equal to that portion of the combined rate of all the local sales-and-use tax payable by the facility each year, which exceed 0.6 percent." I am concerned with making the abatement for 20 years. That is a long time for these local governments to give up the abatements of 55 percent. I have not had a chance to go through this, and I appreciate the comments of the good Senator, but I would like to put my concerns for rural Nevada on the record.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that Assembly Bill No. 522 be declared an emergency measure under the Constitution and that the Secretary be authorized to insert Amendment No. 967 adopted by the Senate, and the bill be immediately placed at the top of the General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 522.

Bill read third time.

Roll call on Assembly Bill No. 522:

YEAS—20.

NAYS—McGinness.

Assembly Bill No. 522 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 65.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 961.

"SUMMARY—Provides for the collection and disposition of additional court fees. (BDR 2-372)"

"AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for bailiffs or deputy marshals assigned to work in a courtroom. Section 5 of this bill requires a county recorder to collect a fee of $50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. However, section 5 also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder. (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in section 2 of this bill, the fees collected pursuant to section 2 must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to section 2 of this bill, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that sections 6 and 7 of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:*

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them $99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding..... $349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party..... $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. ~~[Except as otherwise provided in subsection 4, fees]~~ Fees collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~[:~~

~~(a) An amount equal to $20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.~~

~~(b) All remaining]~~ all fees collected pursuant to this section during the preceding month.

Sec. 3. *1. In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or*

proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account must be administered by the county and:

(a) May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(b) Must not be used to supplant existing budgets for bailiffs or deputy marshals who are assigned to work in a courtroom; and

(c) If any balance remains, may be carried forward to the next fiscal year.

3. As used in this section, "programs for court security" includes, without limitation:

(a) Funding for additional positions for bailiffs, marshals, security guards or similar personnel;

(b) Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;

(c) Acquiring necessary capital goods for court security;

(d) Providing security training and education to personnel;

(e) Conducting security audits; and

(f) Acquiring or using appropriate technology relating to court security.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3 month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the Account. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder for the Account for Foreclosure Mediation to the State Controller for credit to the Account. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

Sec. 6. Notwithstanding any provision of section 2 of this act to the contrary, the fees collected pursuant to section 2 of this act and deposited in the special account administered by the county and maintained for the benefit of the court must be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011, and this money is hereby authorized for expenditure.

Sec. 7. In a county in which a district judge is added by Assembly Bill No. 64 of this session, the county treasurer is hereby required to, on or before the first Monday in January 2011, remit, from the special account administered and maintained pursuant to section 2 of this act, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Sec. 8. 1. This section and sections 1 to 5, inclusive, of this act become effective on July 1, 2009.

2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Senator Townsend requested that his remarks be entered in the Journal.

Assembly Bill No. 65 processed by the Committee on Judiciary is the funding mechanism for Assembly Bill No. 64, which is the expansion of judges, which is needed in this State. There was a provision in here that also included an increase in fees of $20 to fund organizations operating a program for legal services. That is not cogent to the argument of the funding necessary for the judges. We are asking that part be removed so we may deal with this cleanly.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that reprinting of Assembly Bill No. 65 be dispensed with, and that the Secretary be authorized to insert Amendment No. 961 adopted by the Senate, and the bill be immediately placed on the General File for final passage.

Motion carried.

Assembly Bill No. 65.

Bill read third time.

Roll call on Assembly Bill No. 65:

YEAS—21.

NAYS—None.

Assembly Bill No. 65 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 31.

The following Assembly amendments were read:

Amendment No. 725.

"SUMMARY—Revises provisions governing certain independent contractors with the State. (BDR 27-305)"

"AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of

Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with sections 2 and 3 of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections ~~[: (1)]~~ require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by law for the services. ~~[; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of $2,000 being specified in statute.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.*

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. ~~[The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.]~~ The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than ~~[the amount prescribed by the State Board of Examiners;]~~ $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ *If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.*

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. *1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.*

2. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[NRS 284.173;]~~ *section 2 of this act;* and

(b) Contracts to provide medical services for the Department of Corrections.

➥ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[NRS 284.173,]~~ *section 2 of this act,* to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he

officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173.]~~ *section 2 of this act.*

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ *section 2 of this act,* contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of

Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➥ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Amendment No. 900.

"SUMMARY—Revises provisions governing certain independent contractors with the State. (BDR 27-305)"

"AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with sections 2 and 3 of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections: (1) require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by law for the services; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of $2,000 being specified in statute.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1.* ~~[A]~~ *Except as otherwise provided in section 1 of Assembly Bill No. 463 of this session, a using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.*

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than the amount prescribed by the State Board of Examiners; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ *If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.*

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. *1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.*

2. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[NRS 284.173;]~~ *section 2 of this act;* and

(b) Contracts to provide medical services for the Department of Corrections.

➥ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[NRS 284.173,]~~ *section 2 of this act,* to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173.]~~ *section 2 of this act.*

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ *section 2 of this act,* contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the

contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➥ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Senator Lee moved that the Senate concur in the Assembly amendments to Senate Bill No. 31.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendments reinstate some dollar thresholds that trigger the filing and approval of certain purchasing contracts and clarify that the bill does not apply to the provisions of Assembly Bill No. 463, which was approved last week. We agreed with these Assembly amendments.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 94.

The following Assembly amendments were read:

Amendment No. 828.

"SUMMARY—Imposes various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State. (BDR 42-444)"

"AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) Section 2 of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and

regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) Section 4 of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. Section 5 of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to *the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, and to* the Director of the Legislative Counsel Bureau by January 1, 2011, for ~~[submission]~~ *transmittal* to the 2011 Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the

grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including , *without limitation,* any land within the 1/2-mile radius surrounding such an area,

➥ enforce ~~[the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance]~~ *all regulations relating to the reduction* of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more

persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040 ~~[.]~~ *and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.*

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated

municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes,

including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation to the *Committee and to the* Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

3. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218.53871.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Amendment No. 839.

"SUMMARY— ~~[Imposes various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State.]~~ *Makes various changes relating to fire protection.* (BDR 42-444)"

"AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; *authorizing the transfer of certain property by the State of Nevada to the Sierra Fire Protection District;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) Section 2 of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) Section 4 of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. Section 5 of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to the Director of the Legislative Counsel Bureau by January 1, 2011, for submission to the 2011 Legislature.

Section 7 of this bill authorizes the transfer of certain property owned by the State of Nevada to the Sierra Fire Protection District.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including , *without limitation,* any land within the 1/2-mile radius surrounding such an area,

➥ enforce ~~[the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance]~~ *all regulations relating to the reduction* of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and

prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040 ~~[.]~~ *and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.*

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and

fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Sec. 7. 1. The State Land Registrar may transfer to the Sierra Fire Protection District, without consideration, all the interest of the State of Nevada in the real property which is commonly known as the Peavine Fire Station, situated in the County of Washoe, State of Nevada, and is described as follows:

Beginning at a point on the South line of Section 2, Twp. 20 N., Rge 18 E., M.D.B. & M., said point being 50' West from the Southeast Corner of said Section 2; Thence West along said South line of Section 2 a distance of 210.00 feet; Thence Northerly and parallel to the East line of said Section 2, 208.00 feet; Thence East and parallel to said South line of Section 2, 210.00 feet; Thence South and parallel to said East line of Section 2, 208.00 feet to the point of beginning being an area of one acre, more or less, and situate in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section 2.

2. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the Sierra Fire Protection District shall pay the costs relating to the transfer of the real property.

3. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the deed from the State of Nevada to the Sierra Fire Protection District must:

(a) Include restrictions that:

(1) Require the use of the property for the provision of services for fire protection and related public safety services; and

(2) Prohibit the Sierra Fire Protection District or any successor in title from transferring the property without the consent of the State of Nevada.

(b) Provide for the reversion of title to the property to the State of Nevada upon the breach of any restriction specified in this subsection.

Sec. 8. 1. This section and section 7 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 2009.

Senator Lee moved that the Senate concur in the Assembly amendments to Senate Bill No. 94.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The committee agrees with the Assembly amendments to add the Legislature's TRPA Oversight Committee to the distribution of the report required in the bill and authorizes the transfer of the Peavine Fire Station to the Sierra Fire Protection District.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 124.

The following Assembly amendment was read:

Amendment No. 654.

"SUMMARY—Expands the number of members of the boards of trustees of certain general improvement districts. (BDR 25-196)"

"AN ACT relating to general improvement districts; expanding the membership of the boards of trustees of certain general improvement districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Chapter 318 of NRS governs the creation and administration of general improvement districts in Nevada. Existing law requires that the board of trustees of a general improvement district consist of five members. (NRS 318.080) Section 1 of this bill expands the membership of the board of trustees of a general improvement district *: (1)* which exists on or before July 1, 2009 ~~[, and]~~ *; (2) which* is authorized *only* to furnish electric light and power in a county whose population is 400,000 or more ~~[(currently the Overton Power District in Clark County)]~~ *; and (3) for which the board of county commissioners of the county is not ex officio the board of trustees,* from five to seven members. Section 1 also provides the election procedure for the new members, the continuing election process to keep the staggered terms for all board members and the new quorum requirements for the expanded board. *Currently, the Overton Power District in Clark County is the only general improvement district that is impacted by this bill.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 318 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any provision of law to the contrary, the board of trustees of a district organized or reorganized pursuant to this chapter that exists on July 1, 2009, ~~[and]~~ that is authorized only to exercise the basic power of furnishing electric light and power pursuant to NRS 318.117 in a

county whose population is 400,000 or more , and for which the board of county commissioners of the county is not ex officio the board of trustees, shall consist of seven trustees.

2. The members of the board of trustees described in subsection 1 must be selected as follows:

(a) One member who is elected by the qualified electors of the largest incorporated city in the district at the first biennial election following July 1, 2009. The term of office of a trustee who is elected pursuant to this paragraph is 4 years.

(b) One member who is elected by the qualified electors of the district at the first biennial election following July 1, 2009. The initial term of office of a trustee who is elected pursuant to this paragraph is 2 years. After the initial term, the term of office of a trustee who is elected pursuant to this paragraph is 4 years.

(c) Five members who are elected from the election areas in the district created pursuant to NRS 318.0952 that existed on July 1, 2009, each of whom serves for a term of 4 years.

3. Each member of the board of trustees must be a resident of the area which he seeks to represent.

4. A majority of the members of the board constitutes a quorum at any meeting.

Sec. 2. NRS 318.090 is hereby amended to read as follows:

318.090 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be within the corporate limits of the district ~~[,]~~ and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the county clerk or clerks of the county or counties wherein the district is located within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. ~~[Three]~~ *Except as otherwise provided in section 1 of this act, three* members of the board constitute a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act until a successor in office qualifies as provided in NRS 318.080 on or after the first Monday in January next following the next biennial election, held in accordance with NRS 318.095 ~~[,]~~ *or section 1 of this act,* at which election the vacancy must be filled by election if the term of office extends beyond

that first Monday in January. Nominations of qualified electors of the district as candidates to fill unexpired terms of 2 years may be made the same as nominations for regular terms of 4 years, as provided in NRS 318.095 ~~[.]~~ *and section 1 of this act.* If the board fails, neglects or refuses to fill any vacancy within 30 days after the vacancy occurs, the board of county commissioners shall fill that vacancy.

6. Each term of office of 4 years terminates on the first Monday in January next following the general election at which a successor in office is elected, as provided in NRS 318.095 ~~[.]~~ *or section 1 of this act.* The successor's term of office commences then or as soon thereafter as the successor qualifies as provided in NRS 318.080, subject to the provisions in this chapter for initial appointments to a board, for appointments to fill vacancies of unexpired terms ~~[,]~~ and for the reorganizations of districts under this chapter which were organized under other chapters of NRS.

Sec. 3. NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. The names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. ~~[At]~~ *Except as otherwise provided in section 1 of this act, at* the first biennial election in any district organized or reorganized and operating under this chapter ~~[,]~~ and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board to serve for terms of 4 years.

4. The secretary of the district shall give notice of election by publication ~~[,]~~ and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

5. Any new member of the board must qualify in the same manner as members of the first board qualify.

Sec. 4. NRS 318.0951 is hereby amended to read as follows:

318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953:

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. ~~[If]~~ *Except as otherwise provided in section 1 of this act, if* there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected.

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 318.09533 is hereby amended to read as follows:

318.09533 1. When the board of trustees of any district is constituted pursuant to NRS 318.0953, the following special provisions apply and supersede the corresponding provisions of NRS 318.080 to 318.09525, inclusive, *and section 1 of this act,* 318.0954 and 318.0955:

(a) The members need not file the oath of office or bond required by NRS 318.080.

(b) The members of the board of county commissioners may receive no additional compensation as trustees of the district.

(c) The chairman of the board of county commissioners may be chairman of the board of trustees and president of the district, or the board of county commissioners may, at its first meeting in January of each year, designate another of its members to serve as chairman of the board of trustees and president of the district for a term of 1 year.

(d) The vice chairman of the board of county commissioners may be vice chairman of the board of trustees and vice president of the district, or the board of county commissioners may, at its first meeting in January of each year, designate another of its members to serve as vice chairman of the board of trustees and vice president of the district for a term of 1 year.

(e) The secretary and treasurer of the district ~~[shall]~~ *must* not be members of the board of county commissioners. The board may designate the county clerk and county treasurer, respectively, to act ex officio as secretary and treasurer, or it may designate some other person to fill either or both of those offices. No additional bond may be required of the county treasurer as ex officio district treasurer ~~[nor]~~ *or* of any other county officer appropriately bonded as ex officio a district officer.

(f) The secretary and treasurer shall perform the duties prescribed in subsections 3 and 4 of NRS 318.085.

(g) No member of the board of county commissioners may be removed from the office of trustee under NRS 318.080, but any member is automatically removed from that office upon his removal from the office of county commissioner in the manner provided by law.

(h) The regular place of meeting of the board need not be within the corporate limits of the district but must be within the corporate limits of the county and be the regular meeting place of the board of county commissioners unless the board otherwise provides by resolution.

(i) The times of regular meetings of the board must be the same as the times of the regular meetings of the board of county commissioners unless the board otherwise provides by resolution.

(j) Special meetings may be held on notice to each member of the board as often as, and at such place or places within the county as, the board may determine, unless it otherwise provides by resolution.

(k) The office or principal place of the district need not be located within the corporate limits of the district and must be the office of the county clerk unless the board otherwise provides by resolution.

2. Each board of county commissioners may, by resolution, designate the district's name which may be used for all purposes , including , *without limitation,* contracts, lawsuits or in the performance of its duties or exercises of its functions.

3. The board may enter into contracts extending beyond the terms of each member then serving on the board if the contract is entered into in the manner provided for a board of county commissioners in NRS 244.320.

Sec. 7. Nothing in this act affects the term of office or election area of a member of a board of trustees of a district organized or reorganized pursuant to this chapter , ~~[and]~~ authorized *only* to exercise the basic power of furnishing electric light and power pursuant to NRS 318.117 in a county whose population is 400,000 or more *, and for which the board of county commissioners of the county is not ex officio the board of trustees,* and who is in office on July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 124.

Conflict of interest declared by Senator Raggio.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment ensures that the bill only applies to the Overton Power District.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 173.

The following Assembly amendment was read:

Amendment No. 734.

"SUMMARY—Provides for the construction of bus turnouts at certain locations in certain counties. (BDR 22-584)"

"AN ACT relating to local governmental planning; providing for the construction of bus turnouts at certain locations in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) has the authority to provide for the construction and maintenance of benches and shelters for passengers of public mass transportation. (NRS 373.1183) Additionally, the regional transportation commission is required to work with the regional planning coalition concerning plans for capital improvements. (NRS 278.02584)

Section 1 of this bill requires that the regional transportation commission in a county whose population is 400,000 or more designate, on or before December 31, 2009, 10 bus stops at which a bus turnout—an area for loading and unloading passengers outside of the lanes of traffic—must be constructed by December 31, 2012. Such a bus turnout must be constructed on land owned by the State or a local government. The commission must fund the construction of the bus turnout. ~~[On and after January 1, 2013, section 4 of this bill provides that the commission may designate annually up to four locations at which a bus turnout must be constructed within 1 year. Pursuant to section 4, the county and the three largest incorporated cities within the county would each fund the construction of one of the four bus turnouts.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than December 31, 2009:

(a) Except as otherwise provided in subsection 5, the commission shall designate 10 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and

(b) For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

2. For each location designated pursuant to subsection 1, the commission and the State or the local government that owns the location shall ensure that a bus turnout is constructed not later than December 31, 2012.

3. The commission shall fund the construction of a bus turnout built pursuant to this section.

4. When determining the locations to be designated pursuant to subsection 1, the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout by the date set forth in subsection 2.

5. The commission shall not designate more than three locations pursuant to subsection 1 that are owned by the State or by the same local government.

6. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 2. NRS 278.02507 is hereby amended to read as follows:

278.02507 The provisions of NRS 278.02507 to 278.02598, inclusive, *and section 1 of this act* apply only to counties whose population is 400,000 or more and cities located within those counties.

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[Section 1 of this act is hereby amended to read as follows:~~

~~Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.~~ [Not later than December 31, 2009:

~~(a)]~~ ~~Except as otherwise provided in subsection~~ [5,] ~~7, the commission~~ [shall designate 10 locations in] *may require* ~~the county~~ [that are owned by the State or by local governments and at which a]

~~*and the three largest incorporated cities in the county to each construct annually one* bus turnout [must be constructed pursuant to this section; and~~

~~(b) For each location designated pursuant to paragraph (a),] *at the locations designated by* the commission . [and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.]~~

~~2. [For each] *If a* location designated pursuant to subsection 1 [, the commission] *is not owned by the county or city, the county or city* and the State or the local government that owns the location *shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.*~~

~~*3. The county or city* shall ensure that a bus turnout is constructed not later than [December 31, 2012.~~

~~3. The commission] *1 year after the date on which the commission designates the location pursuant to subsection 1.*~~

~~*4. The county or city, as the case may be,* shall fund the construction of a bus turnout [built] *required* pursuant to this section.~~

~~[4. When determining]~~

~~*5. The commission shall:*~~

~~*(a) Compile a list of locations, in order of priority, that the commission may designate pursuant to subsection 1;*~~

~~*(b) Post the list on the Internet website maintained by the commission, if any; and*~~

~~*(c) Annually update the list.*~~

~~*6. When compiling* the *list of* locations [to be designated] pursuant to subsection [1,] *5,* the commission shall consider, without limitation:~~

~~(a) The amount of traffic congestion at the location during hours of peak traffic;~~

~~(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;~~

~~(c) The proximity of the location to an intersection;~~

~~(d) The frequency with which buses receive and discharge passengers at the location;~~

~~(e) The number of bus passengers regularly using the bus stop at the location;~~

~~(f) The general need for a bus turnout at the location; and~~

~~(g) Any obstacle that may prevent the completion of the construction of a bus turnout .~~ [by the date set forth in subsection 2.

~~5.] *7. The commission shall not designate more than* [three locations] *one location* pursuant to subsection 1 that [are] *is* owned by the State or by the same local government.~~

~~[6.] *8. As used in this section:*~~

~~(a) "Bus" has the meaning ascribed to it in NRS 484.021.~~

~~(b) "Bus turnout" means a fixed area that is:~~

~~(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and~~

~~(2) To be occupied exclusively by buses in receiving or discharging passengers.~~

~~(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.~~

~~(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.~~

~~(e) "Location" means a parcel of real property which:~~

~~(1) Is owned by the State or by a local government;~~

~~(2) Is adjacent to a public highway; and~~

~~(3) Contains a bench, shelter or transit stop for passengers of public transportation.~~

~~(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.]~~ *(Deleted by amendment.)*

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. ~~[1. This section and sections 1, 2 and 5 of this act become]~~ *This act becomes* effective on July 1, 2009.

~~[2. Section 4 of this act becomes effective on January 1, 2013, and expires by limitation on December 31, 2023.]~~

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 173.

Remarks by Senators Lee and Carlton.

Senator Lee requested that the following remarks be entered in the Journal.

SENATOR LEE:

The Assembly amendment deletes the portion of the bill that provides for the construction of bus turnouts on or after January 1, 2013. The Senate Committee on Government Affairs agreed with this amendment.

SENATOR CARLTON:

I believe the intent, within this amendment, is that there are dollars available for the forced relocates. There will be compensation, and I believe that was discussed in the Assembly, but the language is not really clear. I wanted to get on the record that it is correct.

SENATOR LEE:

That is correct.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 190.

The following Assembly amendments were read:

Amendment No. 668.

"SUMMARY—Revises provisions regarding the acquisition and disposal of real property by fair and recreation boards in certain larger counties. (BDR 20-648)"

"AN ACT relating to counties; ~~[repealing]~~ *removing* the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill ~~[repeals]~~ *removes* the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in ~~[a transaction]~~ *certain transactions* relating to real property. *The county fair and recreation board still must obtain prior approval of the board of county commissioners before selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 244A.627 is hereby amended to read as follows:

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[acquire, purchase, lease, sell, or dispose of]~~ *sell or lease to a person or governmental entity* any real property ~~[or engage in any other transaction relating to real property]~~ *within the county which is located in a city whose population is less than 150,000* without prior approval of the board of county commissioners.

Sec. 2. ~~[NRS 244A.627 is hereby repealed.]~~ *(Deleted by amendment.)*

~~TEXT OF REPEALED SECTION~~

~~244A.627 Limitations on powers of board concerning real property in certain counties. Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may acquire, purchase, lease, sell, or dispose of any real property or engage in any other transaction relating to real property without prior approval of the board of county commissioners.]~~

Amendment No. 916.

"SUMMARY—Revises provisions regarding the acquisition and disposal of real property by fair and recreation boards in certain larger counties. (BDR 20-648)"

"AN ACT relating to counties; removing the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill removes the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in certain transactions relating to real property. The county fair and recreation board still must obtain prior approval of the board of county commissioners before *: (1) conducting any transaction that may result in or affect any debt or bonds for which the county is responsible; or (2)* selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 244A.627 is hereby amended to read as follows:

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[acquire,]~~ *:*

1. Acquire, purchase, lease, sell ~~[,]~~ or dispose of ~~*[sell or lease to a person or governmental entity]*~~ any real property or engage in any other transaction relating to real property *if the transaction may result in any debt or bonds for which the county may be responsible, in whole or in part, or affects any existing debt or bonds for which the county is responsible, in whole or in part; or*

2. Sell or lease to a person or governmental entity any real property within the county which is located in a city whose population is less than 150,000 ,

➥ without prior approval of the board of county commissioners.

Sec. 2. (Deleted by amendment.)

Senator Lee moved that the Senate concur in the Assembly amendments to Senate Bill No. 190.

Conflict of interest declared by Senator Raggio.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Both Assembly amendments clarified the requirements for the Washoe County Commission to approve certain real-property transactions. We agree that these changes strengthen the bill.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 248.

The following Assembly amendment was read:

Amendment No. 736.

"SUMMARY—Authorizes the extension of the validity of certain building permits and development agreements beyond the original expiration date under certain circumstances. (BDR 22-981)"

"AN ACT relating to local governmental planning; authorizing the extension of the validity of certain building permits and development agreements for a maximum of 15 years beyond the original expiration date if the land is leased for renewable energy generation projects; providing that certain changes to regulations or laws which are made after the issuance of the permit or the time the agreement is entered into, and which apply environmental, life or safety restrictions to the land, apply to the permit ~~[,]~~ *or agreement;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits construction without a building permit issued by the building official with authority over the land where any proposed construction would take place. (NRS 278.610) Existing law also authorizes the governing body of a city or county to enter into an agreement with a person concerning the development of land. (NRS 278.0201) This bill authorizes the extension of the validity of any such permit or agreement beyond its original expiration date if: (1) the permit holder or landowner cannot finance the proposed project; and (2) the land is leased for certain renewable energy projects. The extension is available for permits and agreements for residential and commercial development for a maximum of 15 years after the original expiration date of the permit or agreement. This bill also provides that if a building permit or development agreement is extended, no condition may be placed on the permit or agreement that was not imposed on the original permit or agreement. Additionally, this bill provides that new regulations or laws that apply environmental, life or safety protections to the land in question would also apply, but other zoning changes enacted after the issuance of the permit would not. *Extensions for building permits and agreements pursuant to the provisions of this bill will not be issued after June 30, 2013.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waterpower; and

(f) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 3. *"Renewable energy generation project" means a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity. The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.*

Sec. 4. *1. A ~~[building official who issued a building permit for a residential or commercial project]~~ director of planning or a governing body may extend the period for which ~~[the]~~ a building permit for a residential or commercial project is valid if the person to whom the permit has been issued:*

(a) Applies for an extension ~~[,]~~ before July 1, 2013, subject to any applicable ordinances or regulations adopted by the governing body ; ~~[or building official; and]~~

(b) Demonstrates to the satisfaction of the ~~[building official]~~ director of planning or governing body that:

(1) Financing for the residential or commercial project is not available; and

(2) The land will be leased for a renewable energy generation project ~~[.]~~ ; and

(c) Submits with his application for an extension an affidavit showing that due diligence has been used to obtain financing for the residential or commercial project. The affidavit must include, without limitation, evidence that:

(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

2. A building permit that is extended pursuant to subsection 1 must not be effective:

(a) For more than 15 years after the original expiration date of the building permit; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established by the ~~[building official]~~ director of planning or governing body pursuant to subsection 3.

3. If a ~~[building official]~~ director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1, the ~~[building official]~~ director of planning or governing body shall establish the maximum duration of the period for which the permit will remain valid if the land is no longer leased for a renewable energy generation project.

4. If a ~~[building official]~~ director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1:

(a) No condition may be placed on the permit that was not imposed on the original permit; and

(b) Except as otherwise provided in subsection 5, the ordinances, resolutions or regulations applicable to the land and governing the permitted uses of the land, density and standards for design, improvements and construction are those in effect at the time the building permit is issued.

5. Changes to ordinances, resolutions or regulations that enforce environmental, life or safety standards against parcels of land that the ~~[building official]~~ director of planning or governing body determines are similar to the land for which the building permit was issued will apply to the parcel of land for which the permit was issued.

6. As used in this section, "environmental, life or safety standards" include, without limitation:

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 5. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2, 3 and 4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 278.0201 is hereby amended to read as follows:

278.0201 1. In the manner prescribed by ordinance, a governing body may, upon application of any person having a legal or equitable interest in land, enter into an agreement with that person concerning the development of that land. This agreement must describe the land which is the subject of the agreement and specify the duration of the agreement, the permitted uses of the land, the density or intensity of its use, the maximum height and size of the proposed buildings and any provisions for the dedication of any portion of the land for public use. The agreement may fix the period within which construction must commence and provide for an extension of that deadline.

2. *For an agreement entered into for the residential or commercial development of land, the governing body may extend, beyond the original deadline and beyond any extension of that deadline pursuant to subsection 1, the period within which construction must commence if the person:*

(a) Applies for an extension ~~*[,]*~~ *before July 1, 2013, subject to any applicable ordinances adopted by the governing body;* ~~*[and]*~~

(b) Demonstrates to the satisfaction of the governing body that:

(1) Financing for the residential or commercial project is not available; and

(2) The land will be leased for a renewable energy generation project ~~*[.]*~~ *; and*

(c) Submits with his application for an extension an affidavit showing that due diligence has been used to obtain financing for the residential or commercial project. The affidavit must include, without limitation, evidence that:

(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

3. An agreement must not be extended pursuant to subsection 2:

(a) For more than 15 years after the original deadline or, if the deadline is extended pursuant to subsection 1, after that extension; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established pursuant to subsection 4.

4. If a governing body extends a deadline pursuant to subsection 2, the governing body shall establish the maximum duration of the period for which the agreement will remain valid if the land is no longer leased for a renewable energy generation project.

5. Unless the agreement otherwise provides ~~[,]~~ *and except as otherwise provided in subsection 7,* the ordinances, resolutions or regulations applicable to that land and governing the permitted uses of that land, density and standards for design, improvements and construction are those in effect at the time the agreement is made.

~~[3.]~~ *6.* This section does not prohibit the governing body from adopting new ordinances, resolutions or regulations applicable to that land which do not conflict with those ordinances, resolutions and regulations in effect at the time the agreement is made, except that any subsequent action by the governing body must not prevent the development of the land as set forth in the agreement. The governing body is not prohibited from denying or conditionally approving any other plan for development pursuant to any ordinance, resolution or regulation in effect at the time of that denial or approval.

~~[4.]~~ *7. Notwithstanding the provisions of subsection 6, if the governing body extends a deadline pursuant to subsection 2, changes to ordinances, resolutions or regulations that:*

(a) Are made after the extension is granted; and

(b) Enforce environmental, life or safety standards against land that the governing body determines are similar to the land for which an agreement was made pursuant to this section,

➥ *apply to the land for which the agreement was made.*

8. The provisions of subsection 2 of NRS 278.315 and NRS 278.350 and 278.360 do not apply if an agreement entered into pursuant to this section contains provisions which are contrary to the respective sections.

9. As used in this section, "environmental, life or safety standards" include, without limitation:

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 7. This act becomes effective on July 1, 2009.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 248.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment makes some minor adjustments to who may approve the extensions discussed in the bill, provides an "end date" for these extensions and clarifies what must be on the application for extension. We agree with this amendment.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 332.

The following Assembly amendment was read:

Amendment No. 745.

"SUMMARY—Revises provisions governing the use of alternative fuels and clean vehicles. (BDR 43-1147)"

"AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) Section 4 revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) Section 5 revises the definition of "fleet" to limit the applicability of sections 1-11 to a fleet of 50 or more motor vehicles ~~[that]~~ *which are registered in the same county and which* are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) Section 6 excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of sections 1-11. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of sections 1-11 of this bill. (NRS 486A.200)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the ~~[standards and requirements]~~ specifications for clean vehicles established by the Commission.

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~[Protection of the]~~ *The* State's environment, particularly the quality of its air, ~~[requires a reduction,]~~ *can be improved*, especially in metropolitan areas, ~~[of the contaminants resulting from the combustion of conventional fuels in motor]~~ *through the use of alternative fuels and clean* vehicles.

2. A very large proportion of ~~[these]~~ *air* contaminants ~~[results]~~ *result* from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~[.~~

~~3. Conversion of these fleets to use cleaner-burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor]~~ *, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.*

3. Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements *for alternative fuel* established by the Commission. ~~[The term includes:~~

~~1. Reformulated gasoline; and~~

~~2. Finished diesel fuel that:~~

~~(a) Meets ASTM International specification D975; and~~

~~(b) Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751,~~

~~➥ which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.]~~ *The term does not include a fuel that is required for use in this State pursuant to a*

state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~[10]~~ *50* or more motor vehicles ~~[that]~~ *which are registered in the same county and which* are *under the common control of and* owned, leased or operated by ~~[the State or a local governing body. The term includes fleets that are used by the State,]~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;
2. Moped as defined in NRS 482.069; ~~[and]~~
3. Motorcycle as defined in NRS 482.070 ~~[.]~~ *; and*
4. *Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.*

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act,* including, ~~[but not limited to,]~~ *without limitation,* regulations concerning:

1. Standards and requirements for alternative fuel. ~~[The Commission shall]~~ *In establishing standards and requirements for alternative fuel, the Commission:*

(a) Must consider fuels that are recognized by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board to improve air quality or reduce harmful air emissions.

(b) Shall not discriminate against any product that is petroleum based.

2. ~~*[Standards and requirements]*~~ *Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board for the vehicle category and year of manufacture.*

3. The ~~[conversion of fleets to use alternative fuels if the]~~ *acquisition of clean vehicles and motor vehicles that use alternative fuels by a* fleet *that* is operated in a county whose population is 100,000 or more ~~[.~~

~~3. Standards for alternative fuel injection systems for diesel motor vehicles.]~~ *, including, without limitation, recordkeeping and reporting requirements concerning such vehicles.*

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving *variances or* exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~[.~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.]~~ *, and section 1 of this act. The Commission may approve a variance or exemption based upon:*

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[,]~~ *, and section 1 of this act;*

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~[,]~~ *, and section 1 of this act;* and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ *, and section 1 of this act.*

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~[10 or more]~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and *any* regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~[10 or more]~~ *motor* vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than $1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* or any regulation ~~[in force]~~ *adopted* pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and *any* regulations ~~[in force]~~ *adopted* pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* to ~~[use clean-burning fuel in motor vehicles.]~~ *acquire clean vehicles and motor vehicles that use alternative*

fuels. The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~[clean-burning fuel in]~~ *clean vehicles and* motor vehicles ~~[.]~~ *that use alternative fuels.*

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean-burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. § 490.2.]~~ *"Clean vehicle" has the meaning ascribed to it in section 1 of this act.*

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

Sec. 15. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or

2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. § 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 332.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Originally, we said we were going to concur in this matter, but staff brought to my attention wording in Assembly Bill No. 235 that should be placed into this bill.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

The following Assembly amendment was read:

Amendment No. 689.

"SUMMARY—Makes various changes relating to the prevailing wage requirements. (BDR 28-730)"

"AN ACT relating to labor; making various changes relating to the establishment of the prevailing rates of wages in each county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Labor Commissioner to establish the prevailing rate of wages for public works performed in each county. In determining the prevailing rate of wages for a county for a particular year, the Labor Commissioner is required to survey contractors who have performed work in the county during the preceding year. (NRS 338.030) Section 1 of this bill: (1) clarifies that the survey encompasses private and public nonresidential construction work; (2) specifies the classes of workmen for which the Labor Commissioner is required to survey; (3) if the prevailing rate of wages for a craft or type of work is a wage that has been collectively bargained, requires the Labor Commissioner to recognize the rate for the classes and subclasses of workmen and certain premium pay established in the collective bargaining agreement and adjust to the rate of wages in the agreement that are in effect ~~[on the effective date of the determination;]~~ *and on file with the Labor Commissioner by a specified deadline;* and (4) clarifies the circumstances in which the Labor Commissioner is required to hold a hearing in a locality concerning an objection to or information received on a rate of prevailing wage that has been determined. These requirements apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Under existing law, agencies of the Executive Branch of the State Government, unless specifically exempted, are required to comply with the Nevada Administrative Procedure Act when adopting administrative regulations or adjudicating contested cases. (NRS 233B.039) Section 2 of this bill exempts the Labor Commissioner from compliance with the Act only in the process of determining and issuing the prevailing rate of wages *and subclassifications* in each county.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, *and any person who wishes to bid on a public work* shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed *private or public nonresidential construction* work in the county. *As used in this subsection, "nonresidential construction work" means any*

type of construction other than the construction of multifamily residences which are less than four stories in height and the construction of single-family residences.

3. For the purpose of a survey conducted pursuant to subsection 2, the Labor Commissioner shall recognize and survey only for the following classes of workmen:

(a) Alarm Installer;

(b) Boilermaker;

(c) Bricklayer, including, without limitation, Stone Mason;

(d) Carpenter;

(e) Cement Mason;

(f) Electrician-Communication Technician;

(g) Electrician-Lineman/Groundman/Operator;

(h) Electrician-Neon Sign;

(i) Electrician-Wireman;

(j) Elevator Constructor;

(k) Fence Erector;

(l) Floor Coverer;

(m) Glazier;

(n) Highway Striper;

(o) Hod Carrier-Brick Mason Tender;

(p) Hod Carrier-Plasterer Tender;

(q) Ironworker;

(r) Laborer;

(s) Mechanical Insulator;

(t) Millwright;

(u) Operating Engineer, including, without limitation, Survey Technician, Equipment Greaser, and Soils and Materials Tester;

(v) Painter;

(w) Piledriver (nonequipment);

(x) Plasterer;

(y) Plumber-Pipefitter;

(z) Refrigeration Technician;

(aa) Roofer (excluding metal roofs);

(bb) Sheet Metal Worker, including, without limitation, Air Balance Technician;

(cc) Sprinkler Fitter;

(dd) Taper;

(ee) Tile Setter-Terrazzo Worker-Marble Mason, including, without limitation, Tile Setter-Terrazzo Worker-Marble Mason Finisher;

(ff) Truck Driver; and

(gg) Well Driller.

4. Within 30 days after the determination *of the prevailing wages in a county* is issued:

(a) A public body or person entitled under subsection ~~[5.]~~ *7* to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~[3. The]~~

5. Except as otherwise provided in this subsection, the Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if he:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to *paragraph (a) or (b) of* subsection ~~[2.]~~ *4, unless the prevailing wage to which the objection or information pertains can be corrected ~~[to the rate of wages requested in the objection or information]~~ by the Labor Commissioner through administrative action, including, without limitation, the correction of a clerical error.*

➥ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

~~[4.]~~ *6.* Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~[5.]~~ *7.* At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~[6.]~~ *8. If the Labor Commissioner determines that the prevailing rate of wages for a craft or type of work is a wage which has been collectively bargained, the Labor Commissioner shall:*

(a) Recognize:

(1) The rate for the classes and subclasses of workmen established in the collective bargaining agreement; and

(2) Any premium pay established in the collective bargaining agreement for subsistence, traveling to another zone or area or similar purposes.

(b) Adjust the prevailing rate of wages for the classes and subclasses of workmen to the rate of wages established in the collective bargaining agreement that are in effect ~~[on the effective date of the determination.]~~ and on file with the Labor Commissioner on or before September 1 of the year in which the determination of the prevailing rate of wages is made.

9. The wages so determined *pursuant to this section* must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~[7.]~~ *10.* Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed

upon any public work, or employed by any officer or agent of any public body.

Sec. 2. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) The Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) The Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Labor Commissioner only in the process of determining and issuing the prevailing rate of wages and subclasses of workmen in each county pursuant to NRS 338.030, including, without limitation, the conduct of annual surveys.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 2.5. The provisions of NRS 338.030, as amended by section 1 of this act, apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 2009.

2. Sections 1 and 2.5 of this act become effective on January 1, 2010.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 376.

Conflict of interest declared by Senator Hardy.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment makes technical changes to the bill that were requested by the Labor Commissioner. We agree with these changes.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 396.

The following Assembly amendment was read:

Amendment No. 658.

"SUMMARY—Revises provisions governing an investigation of a peace officer by a law enforcement agency. (BDR 23-1098)"

"AN ACT relating to peace officers; revising provisions governing the review by a peace officer of administrative or investigative files maintained by a law enforcement agency; revising provisions governing investigations of or hearings concerning peace officers that are conducted by a law enforcement agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a law enforcement agency that investigates an allegation of misconduct by a peace officer or takes any punitive action against the peace officer must comply with certain requirements for providing notice and a hearing, using polygraphic examinations, maintaining confidentiality and taking other actions relating to the rights of the peace officer. (NRS 289.010-289.120)

Section 2 of this bill authorizes a peace officer who is the subject of an investigation by a law enforcement agency to review and copy any administrative or investigative file maintained by the law enforcement agency concerning the investigation if, after the conclusion of the investigation, the charges against the peace officer are sustained and the law enforcement agency imposes or considers the imposition of punitive action against the peace officer. (NRS 289.057)

Section 3 of this bill requires a law enforcement agency that intends to conduct an interrogation or to hold a hearing concerning an investigation of a peace officer to provide a written notice of that fact to both the peace officer who is the subject of the investigation and to any peace officer believed by the law enforcement agency to have knowledge of any fact concerning the complaint or allegation made against the peace officer who is the subject of the investigation. Section 3 also ~~[requires the law enforcement agency to allow the peace officer to review certain compiled evidence prepared by the law enforcement agency before conducting the interrogation or hearing and prohibits the law enforcement agency from taking various other actions concerning the peace officer. (NRS 289.060) Finally, section 3]~~ provides that, if a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of an investigation after he is informed that failure to provide the statement or answer may result in punitive action against him, the peace officer's answer or statement cannot be used against him in any criminal investigation of him.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 289.057 is hereby amended to read as follows:

289.057 1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the ~~[investigation causes a]~~ *charges brought against the peace officer are sustained and, based on those charges, the* law enforcement agency ~~[to impose]~~ *:*

(1) Imposes or considers the imposition of punitive action against the peace officer ~~[who was the subject of the investigation and the]~~ *; and*

(2) The peace officer has received *a* notice of the imposition *or proposed imposition* of the punitive action, *including a notice of the right of the peace officer to attend any hearing conducted before the imposition or proposed imposition of the punitive action,*

➥ the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review *and copy* any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

Sec. 3. NRS 289.060 is hereby amended to read as follows:

289.060 1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide *a* written notice to the peace officer ~~[. A]~~ *who is the subject of the investigation and to any* peace officer *believed by the law enforcement agency to have knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation. Each of those peace officers* may waive the notice required pursuant to this section.

2. The notice must include:

(a) A description of the nature of the investigation;

(b) A summary of *the* alleged misconduct of the peace officer ~~[,]~~ *who is the subject of the investigation;*

(c) The date, time and place of the interrogation or hearing;

(d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation;

(e) The name of any other person who will be present at any interrogation or hearing; and

(f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

(a) Interrogate the peace officer during his regular working hours, if reasonably practicable, or compensate him for that time based on his regular wages if no charges *against the peace officer* arise from the interrogation.

(b) Immediately before the interrogation or hearing begins, inform the peace officer orally on the record that:

(1) He is required to provide a statement and answer questions related to ~~[his]~~ *the* alleged misconduct ~~[; and]~~ *of the peace officer who is the subject of the investigation;* *and*

(2) If he fails to provide such a statement or to answer any such questions, the agency may charge him with insubordination *.* ~~*[; and*~~

~~*(3) He is entitled to review any evidence pursuant to subsection 4.]*~~

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer ~~[.]~~ *who is the subject of the investigation.*

(d) Allow the peace officer to explain an answer or refute a negative implication which results from questioning during an interrogation or hearing.

4. ~~*[If the law enforcement agency has any audio, video or written evidence prepared by the peace officer, and the evidence is compiled during the investigation, the law enforcement agency shall allow the peace officer a reasonable period to review the evidence off the record before the interrogation or hearing begins.*~~

~~*5. If a law enforcement agency has any knowledge of or a belief that a peace officer may be subject to punitive action, the law enforcement agency shall not, without complying with the provisions of NRS 289.010 to 289.120, inclusive, order or otherwise require the peace officer to provide a written statement or memorandum concerning any involvement or activities of the peace officer in the alleged misconduct of the peace officer who is the subject of the investigation.*~~

~~*6.]*~~ *If a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of the investigation pursuant to this section after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him, the statement or answer must not be used against the peace officer who provided the statement or answer in any criminal investigation of that peace officer.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2009.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 396.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This is the Police Bill of Rights bill. There is nothing contained in what the Assembly did that this body has not already approved. They deleted some sections but did not add anything to it. The committee reviewed that. We are comfortable with it.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 416.

The following Assembly amendment was read:

Amendment No. 878.

"SUMMARY— ~~[Suspending temporarily]~~ *Revises provisions governing* the administration of ~~[norm-referenced]~~ *certain tests,* examinations *and assessments* in public schools. (BDR ~~[S-]~~ *34-*1216)"

"AN ACT relating to education; *revising provisions governing the administration of certain tests, examinations and assessments by the boards of trustees of school districts;* suspending temporarily the administration of norm-referenced examinations in public schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to administer certain examinations to pupils enrolled in public schools in this State. In addition to the examinations required by state and federal law, the boards of trustees of school districts require pupils to take certain district-wide tests, examinations and assessments. Section 7 of this bill limits the administration of certain district-wide tests, examinations and assessments during the 2009-2010 School Year and the 2010-2011 School Year.

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils to a national reference group of pupils. ~~[This]~~ *Section 9 of this* bill suspends temporarily the administration of norm-referenced examinations for the 2009-2010 School Year and the 2010-2011 School Year.

WHEREAS, *The public schools in this State are required by the Federal Government and the Nevada Legislature to administer an increasing number of standardized tests to pupils, including criterion-referenced examinations, proficiency tests and tests of the National Assessment of Educational Progress; and*

WHEREAS, *The school districts in this State administer numerous district-wide tests in addition to those required by state and federal law; and*

WHEREAS, *In the aggregate, the task of preparing for and administering all these tests in schools throughout the State consumes hundreds of employee hours and requires the school districts to incur costs associated with the administration; and*

WHEREAS, *Although there is an undeniable need for test data to evaluate the progress of Nevada's public schools and pupils in meeting the standards of academic performance, the Legislature must carefully weigh the demands for statistical information against the time for teachers and pupils to accomplish the work required to meet those standards; and*

WHEREAS, *The Nevada Legislature finds that, during these difficult financial times, it is in the best interest of the pupils enrolled in public schools in this State to temporarily limit the administration of certain tests; now, therefore,*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the board of trustees of a school district shall not administer a district-wide test, examination or assessment unless that test, examination or assessment:

(a) Is required by state or federal law; or

(b) Was adopted by the school district before July 1, 2007.

2. The provisions of this section do not apply to a test, examination or assessment that a pupil voluntarily takes without a district-wide requirement, including, without limitation, an advanced placement examination.

Sec. 8. NRS 389.006 is hereby repealed.

~~[Sec. 7.]~~ *Sec. 9.* Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2009-2010 School Year and the 2010-2011 School Year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those School Years are also suspended.

~~[Sec. 8.]~~ *Sec. 10. 1.* This *section and sections 7 and 8 of this act become effective upon passage and approval.*

2. Section 9 of this act becomes effective on July 1, 2009.

3. Sections 7 and 8 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

389.006 Limitation on administration; periodic review. [Effective January 1, 2009.]

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that

the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Senator Mathews moved that the Senate concur in the Assembly amendment to Senate Bill No. 416.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 43.

The following Assembly amendment was read:

Amendment No. 827.

"SUMMARY—Revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works. (BDR 28-323)"

"AN ACT relating to public works; revising the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works to include whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for *improper* conduct *of a serious nature* that relates to the ability of the applicant to perform the public work. (NRS 338.1375)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section

must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;

(5) *Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for improper conduct of a serious nature that relates to the ability of the applicant to perform the public work;*

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

~~[(6)]~~ *(7)* The truthfulness and completeness of the application.

Sec. 2. This act becomes effective upon passage and approval.

Senator Lee moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 43.

Conflict of interest declared by Senator Hardy.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment proposes contractor qualification criteria that are confusing and appear to be overly broad. Therefore, we request the Senate not to concur in this amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 55.

The following Assembly amendment was read:

Amendment No. 588.

"SUMMARY—Makes various changes concerning commercial recordings. (BDR 7-413)"

"AN ACT relating to business entities; providing that business entities may cancel filings made with the Secretary of State under certain circumstances; revising the provisions relating to the resignation of a registered agent; revising the provisions relating to the filing of certain lists by business entities; clarifying the provisions relating to the applicability of certain provisions concerning taxation of a business; *revising provisions relating to the payment of dividends or distributions of stock to a judgment creditor; revising provisions relating to domestication of an undomesticated*

organization; making various other changes pertaining to business entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1, 3, 7, 8, 11, 14, 16, 22, 29, 31, 39, 50 and 53 of this bill authorize certain business entities that have made a filing with the Secretary of State to cancel the filing if: (1) the Secretary of State has not processed the filing and placed the filing into the public record; and (2) the business entity pays the required fee. (NRS 78.0295, 80.007, 81.006, 82.534, 84.009, 86.568, 87.547, 87A.275, 88.339, 88A.930)

Section 2.5 of this bill amends existing law, which requires a registered agent who wishes to resign with respect to a represented entity to file with the Secretary of State a statement of resignation which includes the name and address of the person to which the agent will send the notice of resignation, to require such registered agent to file with the Secretary of State an affidavit stating that written notice was provided to each represented entity and to keep a copy of such notice on file for 1 year from the date of filing the statement of resignation and to make any such copy available to the Secretary of State upon request. (NRS 77.370)

Sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47 and 48 of this bill amend existing law, which requires the Secretary of State to mail certain notices and blank forms to certain business entities, to authorize the Secretary of State to provide instead, by any means, notice to those business entities of the applicable statutory obligations to file certain lists. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732)

Sections 5, 10, 12, 17, 21, 25, 27, 30, 35, 37, 38, 43, 45, 46, 49, 51 and 52 of this bill provide that a business entity is required to provide the Secretary of State certain information concerning its owners of record only upon the request of the Secretary of State. (NRS 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251)

Sections 23 and 28 of this bill make technical corrections: (1) to an incorrect reference concerning a registered limited-liability partnership; and (2) to include a reference to the requirement to provide information concerning a registered agent when a foreign registered limited-liability partnership is seeking reinstatement. (NRS 87.480, 87.5435)

Section 6.5 of this bill amends existing law to: (1) define the rights of a judgment creditor who, by court order, receives the distribution or dividend of shares of stock from a stockholder who is the judgment debtor; (2) expand the applicability of the court order to corporations with more than 1 but fewer than 100 shareholders; and (3) provide that the court order does not supercede a private agreement between the stockholder and the creditor if the agreement does not conflict with the corporation's articles of incorporation, bylaws or a shareholder agreement to which the stockholder is a party. (NRS 78.746)

Sections 36 and 44 of this bill authorize a partnership to register as a limited-liability limited partnership by filing a combined certificate with the Secretary of State and paying the appropriate fee. (NRS 87A.630, 88.606)

Section 53.5 of this bill amends existing law to provide that an undomesticated organization seeking domestication in this State must provide a certified copy of the charter document and a certificate of good standing, or the equivalent, from the jurisdiction where the organization was chartered immediately preceding the application for domestication. Additionally, section 53.5 addresses the liability of a shareholder or other type of owner of the organization before and after domestication of the organization in this State. Finally, section 53.5 expands the availability of domestication in this State from only organizations governed by the laws of a foreign country or jurisdiction outside the United States to include organizations governed by the laws of any state other than this State, including those of other states within the United States. (NRS 92A.270)

Section 54 of this bill amends the existing definition of "business" to include any entity organized pursuant to title 7 of NRS, including an entity required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit, other than a nonprofit corporation or a corporation sole, which clarifies that such a business is required to: (1) obtain a state business license; and (2) register with the Department of Taxation if the business purchases tangible personal property for storage, use or other consumption in this State. (NRS 360.765, 372.220)

Section 55 of this bill provides that if an applicant for a state business license is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the applicant must include in its application the exact name on file with the Secretary of State. (NRS 360.780) Section 55 also clarifies that for the purposes of the statutory provisions requiring a person to obtain a state business license, a person is deemed to be conducting a business in this State if a business for which the person is responsible has a registered agent in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 1.5. NRS 77.300 is hereby amended to read as follows:

77.300 Whenever a provision of this chapter ~~[other than paragraph (d) of subsection 1 of NRS 77.370]~~ requires that a filing state an address, the filing must state:

1. An actual street address or rural route box number in this State; and

2. A mailing address in this State, if different from the address under subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 77.370 is hereby amended to read as follows:

77.370 1. A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

(a) The name of the entity;

(b) The name of the agent; *and*

(c) That the agent resigns from serving as agent for service of process for the entity . ~~[, and~~

~~(d) The name and address of the person to which the agent will send the notice required by subsection 3.]~~

2. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed ~~[.]~~ *and shall file with the Secretary of State an affidavit stating that written notice of the resignation has been provided to each represented entity. The affidavit must include the name of each represented entity that was provided notice, but is not required to include the contact information of the represented entity or the names of the interest holders of the represented entity. The registered agent shall keep a copy of each notice provided to a represented entity on file for 1 year after the date of filing the statement of resignation and shall make any such copy available to the Secretary of State upon request.*

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the agent or that the agent may have against the entity.

5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

Sec. 3. NRS 78.0295 is hereby amended to read as follows:

78.0295 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 4. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of NRS 360.780; and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of

the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, ~~[cause to be mailed]~~ *provide* to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 5. NRS 78.152 is hereby amended to read as follows:

78.152 1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. *NRS 78.746 is hereby amended to read as follows:*

78.746 1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

(a) Applies only to a corporation that:

(1) Has more than 1 but fewer than ~~[75]~~ *100* stockholders of record at any time.

(2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.

(3) Is not a professional corporation as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor ~~[.]~~ *if the private agreement does not conflict with the corporation's*

articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 7. Chapter 78A of NRS is hereby amended by adding thereto a new section to read as follows:

If a close corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the close corporation may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 8. NRS 80.007 is hereby amended to read as follows:

80.007 1. A foreign corporation may correct a record filed in the Office of the Secretary of State if the record contains an incorrect statement or was defectively signed, attested, sealed or verified.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a foreign corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the foreign corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 9. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1.* Failure of any corporation to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an

amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 10. NRS 80.113 is hereby amended to read as follows:

80.113 1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 11. NRS 81.006 is hereby amended to read as follows:

81.006 1. A nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter may correct a record filed with the Secretary of State with respect to the entity if the record contains an inaccurate description of an action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the entity must:

(a) Prepare a certificate of correction which:

(1) States the name of the entity;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the entity or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the nonprofit cooperative corporation, cooperative association, charitable organization or other entity may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 12. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, ~~[cause to be mailed]~~ *provide* to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign nonprofit corporation to receive ~~[the forms]~~ *a notice* does not

excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 14. NRS 82.534 is hereby amended to read as follows:

82.534 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 84.009 is hereby amended to read as follows:

84.009 1. A corporation sole may correct a record filed with the Office of the Secretary of State with respect to the corporation sole if the record contains an inaccurate description of an action of the corporation sole or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation sole must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation sole;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent or other presiding officer or clergyman of a church, religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church, religious society or denomination, and in whom is vested the legal title to the property held for the purpose, use or benefit of the church or religious society or denomination.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation sole has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation sole may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 17. NRS 86.246 is hereby amended to read as follows:

86.246 1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[A]~~ *Upon the request of the Secretary of State, the* limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action

necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the

resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, ~~[cause to be mailed]~~ *provide* to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file ~~[a]~~ *the* list required by subsection 2. Failure of any company to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, ~~[cause to be mailed]~~ *provide* to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign limited-liability company to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 21. NRS 86.54615 is hereby amended to read as follows:

86.54615 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. NRS 86.568 is hereby amended to read as follows:

86.568 1. A limited-liability company may correct a record filed in the Office of the Secretary of State with respect to the limited-liability company if the record contains an inaccurate description of a company action or was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited-liability company must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited-liability company;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a manager of the company or, if management is not vested in a manager, by a member of the company.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited-liability company has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited-liability company may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 23. NRS 87.480 is hereby amended to read as follows:

87.480 A registered limited-liability partnership must have a registered agent who resides or is located in this State. A registered agent must have a street address for the service of process that is the principal office of the registered limited-liability ~~[company]~~ *partnership* in this State, and may have a separate mailing address that is different from his street address.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of NRS 360.780, an acknowledgment that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice ~~[or form]~~ does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.515 is hereby amended to read as follows:

87.515 1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 26. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign registered limited-liability partnership to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 27. NRS 87.5413 is hereby amended to read as follows:

87.5413 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 and NRS 87.5413, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State ~~[the]~~ *:*

(1) The list required by NRS 87.541; and

(2) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered

limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 29. NRS 87.547 is hereby amended to read as follows:

87.547 1. A registered limited-liability partnership may correct a record filed in the Office of the Secretary of State with respect to the registered limited-liability partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the registered limited-liability partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the registered limited-liability partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a managing partner of the registered limited-liability partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a registered limited-liability partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the registered limited-liability partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 30. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 31. NRS 87A.275 is hereby amended to read as follows:

87A.275 1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership or foreign limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership or foreign limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the false or erroneous information or the defect;

(4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership or foreign limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:

(a) For the purposes of subsections 3 and 4 of NRS 87A.150; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

4. If a limited partnership or foreign limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership or foreign limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 32. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ *required pursuant to subsection 1.* Failure of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1*. Failure of any foreign limited partnership to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 35. NRS 87A.580 is hereby amended to read as follows:

87A.580 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. *A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited*

partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.

5. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 37. NRS 87A.640 is hereby amended to read as follows:

87A.640 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 38. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. NRS 88.339 is hereby amended to read as follows:

88.339 1. A limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and

adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 40. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due

pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ *required pursuant to subsection 1.* Failure of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 41. (Deleted by amendment.)

Sec. 42. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to

the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1*. Failure of any foreign limited partnership to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 43. NRS 88.5927 is hereby amended to read as follows:

88.5927 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. *A partnership may register as a registered limited-liability limited partnership at the time of filing its certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees required pursuant to subsections 1 and 2 of NRS 88.415.*

5. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 45. NRS 88.6067 is hereby amended to read as follows:

88.6067 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 46. NRS 88A.345 is hereby amended to read as follows:

88A.345 1. ~~[A]~~ *Upon the request of the Secretary of State, a* business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 47. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1.* Failure of a business trust to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 48. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of

State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ *provide* to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1*. Failure of any foreign business trust to receive ~~[the forms]~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 49. NRS 88A.7345 is hereby amended to read as follows:

88A.7345 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88A.930 is hereby amended to read as follows:

88A.930 1. A business trust may correct a record filed in the Office of the Secretary of State with respect to the business trust if the record contains an inaccurate description of a trust action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the business trust must:

(a) Prepare a certificate of correction that:

(1) States the name of the business trust;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a trustee of the business trust.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a business trust has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the business trust may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 51. NRS 89.045 is hereby amended to read as follows:

89.045 1. A professional entity shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* professional entity shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional entity to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional entity fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional entity complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 89.251 is hereby amended to read as follows:

89.251 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the* professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 53. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 53.5. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; ~~[and]~~

(3) The information required pursuant to NRS 77.310 ~~[.]~~ ;

(4) A certified copy of the charter document of the undomesticated organization; and

(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created ~~[,]~~ *and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;*

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law ~~[,~~
~~]~~ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. *The owner liability of an undomesticated organization that is domesticated in this State:*

(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;

(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;

(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section ~~[, "undomesticated]~~ *:*

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than ~~[the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.]~~ *this State.*

Sec. 54. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; ~~[or]~~

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity ~~[.]~~ *; or*

(c) Any entity organized pursuant to title 7 of NRS, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapters 82 or 84 of NRS.

Sec. 55. NRS 360.780 is hereby amended to read as follows:

360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Department;

(b) Set forth the name under which the applicant transacts or intends to transact business *, or if the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the exact name on file with the Secretary of State,* and the location *in this State* of his place or places of business;

(c) Be accompanied by a fee of $100; and

(d) Include any other information that the Department deems necessary.

➥ *If the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.*

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;

(b) A member or partner, if the business is owned by an association or partnership; or

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State; ~~[or]~~

(c) *Has a registered agent in this State; or*

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

8. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 56. This act becomes effective on July 1, 2009.

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 55.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This is the Secretary of State's bill dealing with commercial recordings. The Assembly put additional language in it about charging orders and domestication of undomesticated foreign entities. We would like to discuss this with the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 84.

The following Assembly amendment was read:

Amendment No. 723.

"SUMMARY—Authorizes cities to create departments of alternative sentencing. (BDR 16-257)"

"AN ACT relating to sentencing; authorizing a city to create a department of alternative sentencing; revising provisions relating to the administration of certain programs of supervision for persons with suspended sentences or persons sentenced to residential confinement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county to create a department of alternative sentencing. (Chapter 211A of NRS) Sections 1-6 of this bill authorize the governing body of a county or a city to create a department of alternative sentencing.

Existing law provides for the administration of programs of supervision for certain persons with suspended sentences and persons sentenced to residential confinement by a justice court or municipal court. (NRS 4.372, 5.052) ~~[Section 7 of this bill authorizes the chief of the department of alternative sentencing of a city located within the county in which a justice court is located to administer the program of supervision for persons with~~

~~sentences suspended by the justice court and persons sentenced to residential confinement by the justice court if the county does not have a department of alternative sentencing and such a department exists within any city located within that county.]~~ Section 8 of this bill requires the chief of the department of alternative sentencing of the city in which a municipal court is located to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city has a department of alternative sentencing. Further, section 8 ~~[requires the chief of the department of alternative sentencing of the county in which a]~~ *authorizes the* municipal court ~~[is located]~~ *to contract with a qualified person* to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city in which the municipal court is located does not have a department of alternative sentencing . ~~[and such a department exists within the county.]~~ *Section 7 of this bill makes technical changes to provide consistency with the amendments made to the statutory provisions of section 8 of this bill.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 211A of NRS is hereby amended by adding thereto a new section to read as follows:

"Governing body" means the governing body of a county or a city.

Sec. 2. NRS 211A.010 is hereby amended to read as follows:

211A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 211A.020 to 211A.070, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 211A.080 is hereby amended to read as follows:

211A.080 The ~~[board]~~ *governing body* of each county *or city* may create a department of alternative sentencing to provide a program of supervision for probationers.

Sec. 4. NRS 211A.100 is hereby amended to read as follows:

211A.100 The chief:

1. Must be appointed by the action of a majority of the ~~[board.]~~ *governing body*.

2. Must have at least 5 years of experience, with an increasing level of responsibility, in the field of law enforcement, corrections or supervision of persons on probation or parole.

3. Is in the unclassified service of the county.

Sec. 5. NRS 211A.110 is hereby amended to read as follows:

211A.110 The chief shall:

1. Hire assistant alternative sentencing officers and other employees as necessary to carry out the responsibilities of the department within the limitations of appropriations to the department by the ~~[board.]~~ *governing body*.

2. Direct the work of all assistants and employees.

3. Be responsible for the fiscal affairs of the department.

4. Be responsible for the completion of any report regarding an investigation or the supervision of a probationer and any report requested by the court or the ~~[board.]~~ *governing body*.

5. After reviewing and considering recognized correctional programs and courses for training correctional staff, develop and provide to assistants and other employees training in methods and policies regarding the investigation and supervision of probationers, the recordkeeping of the department and the reporting on matters relating to probationers.

6. Submit a written report, on or before January 31 of each year, to the ~~[board]~~ *governing body* and to each court having jurisdiction over a probationer under his supervision, setting forth in detail the activities of the department during the previous calendar year. The report must include statistical data concerning the department's activities and operations and the probationers who were under the supervision of the department during that period.

7. Advise the court of any probationer who has violated the terms or conditions of his suspended sentence or residential confinement.

Sec. 6. NRS 211A.130 is hereby amended to read as follows:

211A.130 1. The ~~[board]~~ *governing body* shall adopt a schedule of fees to be imposed on probationers to defray the cost of the supervision of a probationer. The schedule adopted must provide for a monthly fee of not less than $20 for the supervision of a probationer.

2. Except as otherwise provided in subsection 3:

(a) The department shall charge each probationer the fee set forth in the schedule adopted pursuant to subsection 1.

(b) Payment of the required fee by the probationer is a condition of his suspended sentence or residential confinement.

3. If the chief determines that payment of the fee would result in economic hardship to a probationer, the chief may waive the imposition of, or reduce the amount of, the fee. If the chief waives the imposition of the fee, payment of the fee by the probationer does not constitute a condition of his suspended sentence or residential confinement.

Sec. 7. NRS 4.372 is hereby amended to read as follows:

4.372 *1.* If the county in which a justice court is situated ~~[does not have]~~ *has* a department of alternative sentencing, the ~~[justice court may contract with a qualified person to]~~ *chief of that department shall* administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 4.373 or who are sentenced to a term of residential confinement pursuant to NRS 4.3762.

2. If the county in which the justice court is situated ~~[has]~~ *does not have* a department of alternative sentencing , ~~*[and:*~~

~~*(a) Any city located within the county in which the justice court is situated has a department of alternative sentencing]*~~ the ~~*[:*~~

~~*(1) The* chief of~~ [that] ~~*[the* department~~] [shall] ~~*[of alternative sentencing of such a city]*~~ *justice court may* contract with a qualified person *to* administer the program of supervision . ~~*[; or*~~

~~*(2) If the chief of the department of alternative sentencing of such a city does not wish to administer the program of supervision, the justice court may contract with a qualified person to administer the program of supervision.*~~

~~*(b) No city located within the county in which the justice court is situated has a department of alternative sentencing, the justice court may contract with a qualified person to administer the program of supervision.]*~~

Sec. 8. NRS 5.052 is hereby amended to read as follows:

5.052 *1.* If the ~~[county]~~ *city* in which a municipal court is situated ~~[does not have]~~ *has* a department of alternative sentencing, the ~~[municipal court may contract with a qualified person to]~~ *chief of that department shall* administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 5.055 or who are sentenced to a term of residential confinement pursuant to NRS 5.076.

2. If the ~~[county]~~ *city* in which the municipal court is situated ~~[has]~~ *does not have* a department of alternative sentencing . ~~*[and:*~~

~~*(a) The county in which the municipal court is situated has a department of alternative sentencing,]*~~ the ~~[chief of]~~ [that] ~~*[the* department of alternative sentencing of the county shall]~~ *municipal court may contract with a qualified person to* administer the program of supervision.

~~*[(b) The county in which the municipal court is situated does not have a department of alternative sentencing, the municipal court may contract with a qualified person to administer the program of supervision.]*~~

Sec. 9. NRS 211A.030 is hereby repealed.

TEXT OF REPEALED SECTION

211A.030 "Board" defined. "Board" means a board of county commissioners.

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 84.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This is a bill requested by the City of Henderson that deals with alternative-sentencing programs. The Assembly undertook a number of deletions to the bill. We take exception to that.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 175.

The following Assembly amendment was read:

Amendment No. 921.

"SUMMARY—Enacts provisions governing flood management projects ~~[.]~~ *and other related activities.* (BDR 20-239)"

"AN ACT relating to ~~[floods;]~~ *water;* authorizing a board of county commissioners to acquire, improve, equip, operate and maintain a flood

management project in certain counties; authorizing any revenues derived from such a flood management project to be pledged for the payment of certain bonds; authorizing the governing body of a municipality in certain counties to acquire, improve, equip, operate and maintain a flood management project under certain circumstances; *requiring the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources;* revising provisions governing the acquisition of bonds issued by a flood management authority; *expanding the duties of the Legislative Committee to Oversee the Western Regional Water Commission;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners to acquire and maintain within the county various projects, including building projects, drainage and flood control projects, lending projects, off-street parking projects, overpass projects, park projects, sewerage projects, street projects and water projects. In connection with those projects, a board of county commissioners may issue general obligation bonds to support and defray the cost of the project and take certain other related actions concerning the project. (NRS 244A.011-244A.065) Existing law confers similar authority upon the governing body of a municipality. (NRS 268.672-268.740) Sections 3-15 of this bill expand the authority of a board of county commissioners in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) by authorizing the board to acquire and maintain a flood management project in the same manner as any other project authorized under existing law. Sections 16-22 of this bill provide similar provisions for a governing body of a municipality within such a county. Sections 24-27 of this bill revise the provisions of existing law governing the making of loans and the issuance of state securities by this State to assist municipalities in the construction of public improvements by including within those provisions a flood management authority.

Existing law requires the regional planning commission of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to develop a comprehensive regional plan for the physical development and orderly growth of the region. (NRS 278.0272) The comprehensive regional plan must include goals, policies, maps and other documents relating to population, conservation, limitation of premature expansion, land use, transportation, public facilities and services, annexation, intergovernmental coordination and certain utility projects. (NRS 278.0274) Existing law also provides for the development by the Northern Nevada Water Planning Commission of a comprehensive plan concerning supplies of water within the planning area for the comprehensive plan and for the adoption of such a plan by the Western Regional Water Commission. (NRS 540A.010; Chapter 531, Statutes of Nevada 2007, pp. 3285-3304) Section 23.5 of this bill requires the comprehensive regional

plan to include several provisions concerning the availability of water resources for growth and development, including a statement setting forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission.

Existing law creates the Legislative Committee to Oversee the Western Regional Water Commission and requires the Committee to review the programs and activities of the Western Regional Water Commission. (Chapter 531, Statutes of Nevada 2007, p. 3302) Section 27.5 of this bill requires the Committee to include in its review of the programs and activities of the Commission an analysis of the potential acquisition, control and management by the Commission of a flood management project that is located within the planning area of the Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Legislature hereby declares that flood management projects provide a benefit to residents and owners of property by:

1. Preventing the loss of life and property;

2. Preventing the disruption of essential services for the safety of the public and the disruption of commerce, transportation, communication and essential services which have adverse economic impacts;

3. Preventing the waste of water resulting from floods;

4. Providing for the conservation, development, use and disposal of water and improved quality of water;

5. Providing for ecosystem restoration and enhanced recreational facilities; and

6. Providing for the safeguarding of the public health.

Sec. 2. Chapter 244A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.*

Sec. 4. *"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:*

1. A drainage and flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A park project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

➥ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ *and sections 3 and 4 of this act may* be ~~[known]~~ *cited* as the County Bond Law.

Sec. 6. NRS 244A.013 is hereby amended to read as follows:

244A.013 Except where the context otherwise requires, the definitions in NRS 244A.015 to 244A.056, inclusive, *and sections 3 and 4 of this act* govern the construction hereof.

Sec. 7. NRS 244A.025 is hereby amended to read as follows:

244A.025 "County" means any county in ~~[the]~~ *this* State. For the purposes of NRS 244A.011 to 244A.065, inclusive, *and sections 3 and 4 of this act,* Carson City is considered as a county.

Sec. 8. NRS 244A.027 is hereby amended to read as follows:

244A.027 "Drainage and flood control project" means any natural and artificial water facilities for the collection, transportation, impoundment and disposal of rainfall, storm, flood or surface drainage waters, including, without limitation, ditches, lakes, reservoirs, revetments, levees, dikes, walls, embankments, bridges, sewers, culverts, inlets, connections, laterals, collection lines, outfalls, outfall sewers, trunk sewers, intercepting sewers, transmission lines, conduits, syphons, sluices, flumes, canals, ditches, natural

and artificial watercourses, ponds, dams, retarding basins, and other water diversion and storage facilities, pumping stations, stream gauges, rain gauges, meters, flood warning service and appurtenant telephone, telegraph, radio and television service, engines, valves, pumps, apparatus, fixtures, structures and buildings, or any combination thereof, and all appurtenances and incidentals necessary, useful or desirable for any such facilities, including, without limitation, all types of property therefor. *The term includes a flood management project.*

Sec. 9. NRS 244A.034 is hereby amended to read as follows:

244A.034 "Infrastructure project" means:

1. A capital improvement for fire protection, a library, a building, a park or police protection that a municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law; or

2. For a water authority, wastewater authority , *flood management authority* or any municipality whose governing body is composed of only the members of the board, a capital improvement for ~~[~~a~~]~~ *:*

(a) A water system ~~[~~,~~]~~ *;*

(b) A water reclamation system *;*

(c) A flood management project; or

(d) A sanitary sewer ,

➥ that the municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law.

Sec. 10. NRS 244A.0345 is hereby amended to read as follows:

244A.0345 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds issued by a municipality pursuant to a law other than the County Bond Law which are:

1. General obligations payable from ad valorem taxes that are approved by the voters of the municipality issued for a capital improvement of a library or park;

2. General obligations payable from ad valorem taxes that are approved by the voters of the municipality or are approved pursuant to subsection 3 of NRS 350.020 issued for a capital improvement of an infrastructure project other than a library or park;

3. Revenue obligations of a water authority that are payable from revenues of:

(a) The water system of the water authority;

(b) One or more of the municipalities that are members of the water authority; or

(c) Any combination of the entities described in paragraphs (a) and (b); ~~[~~or~~]~~

4. Revenue obligations of a wastewater authority that are payable from revenues of:

(a) The water reclamation system of the wastewater authority;

(b) One or more of the municipalities that are members of the wastewater authority; or

(c) Any combination of the entities described in paragraphs (a) and (b) ~~[.]~~ *; or*

5. Revenue obligations of a flood management authority that are payable from the revenues of:

(a) A flood management project of the flood management authority;

(b) One or more of the municipalities that are members of the flood management authority; or

(c) Any combination of the entities described in paragraphs (a) and (b).

Sec. 11. NRS 244A.0347 is hereby amended to read as follows:

244A.0347 "Municipality" means any city, town, school district, library district, consolidated library district, fire protection district, district for a fire department, park district, general improvement district organized pursuant to chapter 318 of NRS, wastewater authority, *flood management authority*, water district organized pursuant to a special act or water authority organized as a political subdivision created by cooperative agreement.

Sec. 12. NRS 244A.057 is hereby amended to read as follows:

244A.057 Any board, upon behalf of the county and in its name, may acquire, improve, equip, operate and maintain, within the county:

1. A building project;
2. A drainage and flood control project;
3. A *flood management project;*
4. *A* lending project if the county has adopted an ordinance pursuant to subsection 3 of NRS 244A.064;

~~[4.]~~ *5.* An off-street parking project;
~~[5.]~~ *6.* An overpass project;
~~[6.]~~ *7.* A park project;
~~[7.]~~ *8.* A sewerage project;
~~[8.]~~ *9.* A street project;
~~[9.]~~ *10.* An underpass project; and
~~[10.]~~ *11.* A water project.

Sec. 13. NRS 244A.061 is hereby amended to read as follows:

244A.061 The payment of any bonds issued hereunder may be additionally secured by a pledge of all or part of any revenues derived from ~~[the]~~ *:*

1. The operation of any project herein authorized and from any other income-producing project of the county ~~[and derived from any]~~ *;*

2. A flood management project; or

3. Any license or other excise taxes levied for revenue and available for such a pledge , ~~[(]~~

➥ or any combination thereof . ~~[).]~~

Sec. 14. NRS 244A.063 is hereby amended to read as follows:

244A.063 In order to ~~[insure]~~ *acquire, improve, equip, operate and maintain a project specified in NRS 244A.057 and to ensure* the payment, wholly or in part, of the general obligation bonds or revenue bonds of the county the payment of which bonds is additionally secured by a pledge of the

revenues derived from any such income-producing project ~~[and from any such]~~ *, flood management project or* excise taxes, *or any combination thereof,* the board may establish and maintain, and the board may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or both services and facilities, rendered by or through the *income-producing project or flood management* project, within the corporate limits of the county, and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the board authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 15. NRS 244A.065 is hereby amended to read as follows:

244A.065 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 244A.011 to 244A.065, inclusive, ~~[shall be]~~ *and sections 3 and 4 of this act are* in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ *and sections 3 and 4 of this act do* not affect the powers conferred by, any other law.

3. No part of NRS 244A.011 to 244A.065, inclusive, ~~[shall repeal or affect]~~ *and sections 3 and 4 of this act repeals or affects* any other law or part thereof, it being intended that NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ *and sections 3 and 4 of this act must* provide a separate method of accomplishing its objectives, and not an exclusive one *,* ~~[;]~~ and NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ *and sections 3 and 4 of this act must* not be construed as repealing, amending or changing any such other law.

Sec. 16. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a city in a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the city or any flood or storm waters of a stream of which the source is located outside of the city. The term includes, without limitation:

1. A drainage project or flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A recreational project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. The acquisition of any real property or interest in real property to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

➥ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 17. NRS 268.672 is hereby amended to read as follows:

268.672 NRS 268.672 to 268.740, inclusive, *and section 16 of this act* may be cited as the City Bond Law.

Sec. 18. NRS 268.674 is hereby amended to read as follows:

268.674 Except as otherwise provided in NRS 268.672 to 268.740, inclusive, *and section 16 of this act, the* terms used or referred to herein are as defined in the Local Government Securities Law , ~~[;]~~ but the definitions in NRS 268.676 to 268.728, inclusive, *and section 16 of this act,* except where the context otherwise requires, govern the construction hereof.

Sec. 19. NRS 268.682 is hereby amended to read as follows:

268.682 "Drainage project" or "flood control project," or any phrase of similar import, means any natural and artificial water facilities for the collection, channeling, impoundment and disposal of rainfall, other surface and subsurface drainage waters, and storm and floodwaters, including , without limitation ditches, ponds, dams, spillways, retarding basins, detention basins, lakes, reservoirs, canals, channels, levees, revetments, dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, water lines, sluices, flumes, syphons, sewer lines, pipes, conduits, culverts, other transmission lines, pumping stations, gauging stations, ventilating facilities, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet

structures, bucket machines, inlet and outlet cleaners, backhoes, draglines, graders, other equipment, apparatus, fixtures, structures and buildings, flood warning service and appurtenant telephone, telegraph, radio and television apparatus and other water diversion, drainage and flood control facilities , ~~[(]~~ or any combination thereof . ~~[).]~~ *The term includes a flood management project.*

Sec. 20. NRS 268.730 is hereby amended to read as follows:

268.730 Except as otherwise provided in NRS 268.086 and 268.088, any governing body of a municipality, upon its behalf and in its name, may at any time or from time to time acquire, improve, equip, operate and maintain, within or without or both within and without the municipality:

1. A building project;
2. A cemetery project;
3. A communications project;
4. A drainage project or flood control project;
5. An electric project;
6. A fire protection project;
7. *A flood management project;*
8. An off-street parking project;
9. ~~[8.]~~ *9.* An overpass project;
10. ~~[9.]~~ *10.* A park project;
11. ~~[10.]~~ *11.* A recreational project;
12. ~~[11.]~~ *12.* A refuse project;
13. ~~[12.]~~ *13.* A sewerage project;
14. ~~[13.]~~ *14.* A sidewalk project;
15. ~~[14.]~~ *15.* A street project;
16. ~~[15.]~~ *16.* A transportation project;
17. ~~[16.]~~ *17.* An underpass project; and
18. ~~[17.]~~ *18.* A water project.

Sec. 21. NRS 268.738 is hereby amended to read as follows:

268.738 In order to ~~[insure]~~ *acquire, improve, equip, operate and maintain a project specified in NRS 268.730 and to ensure* the payment, wholly or in part, of the general obligation securities *or revenue securities* of the municipality the payment of which bonds is additionally secured by a pledge of the revenues derived from any such income-producing project ~~[and from any such]~~ *, flood management project or* excise taxes, *or any combination thereof,* the governing body of the municipality may establish and maintain, and the governing body may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or both services and facilities, rendered by or through the *income-producing project or flood management* project and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the governing body authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 22. NRS 268.740 is hereby amended to read as follows:

268.740 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 268.672 to 268.740, inclusive, ~~[shall be]~~ *and section 16 of this act are* in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 268.672 to 268.740, inclusive, ~~[shall]~~ *and section 16 of this act do* not affect the powers conferred by, any other law.

3. No part of NRS 268.672 to 268.740, inclusive, ~~[shall repeal or affect]~~ *and section 16 of this act repeals or affects* any other law or part thereof, it being intended that NRS 268.672 to 268.740, inclusive, ~~[shall]~~ *and section 16 of this act must* provide a separate method of accomplishing its objectives, and not an exclusive one , ~~[;]~~ and NRS 268.672 to 268.740, inclusive, ~~[shall]~~ *and section 16 of this act must* not be construed as repealing, amending or changing any such other law.

Sec. 23. NRS 271A.050 is hereby amended to read as follows:

271A.050 "Project" means:

1. With respect to a county whose population is 400,000 or more:

(a) An art project, as defined in NRS 271.037;

(b) A tourism and entertainment project, as defined in NRS 271.234; or

(c) A sports stadium which can be used for the home games of a Major League Baseball or National Football League team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a Major League Baseball or National Football League stadium, including, without limitation, all types of property therefor and immediately adjacent facilities for retail sales, dining and entertainment.

2. With respect to a city in a county whose population is 400,000 or more:

(a) A project described in paragraph (a), (b) or (c) of subsection 1; or

(b) A recreational project, as defined in NRS 268.710.

3. With respect to a municipality other than a municipality described in subsection 1 or 2, any project that the municipality is authorized to acquire, improve, equip, operate and maintain pursuant to subsections 1, 2 , *3* and ~~[4]~~ *5* to 10, inclusive, of NRS 244A.057 or NRS 268.730 or 271.265, as applicable.

4. Any real or personal property suitable for retail, tourism or entertainment purposes.

5. Any real or personal property necessary, useful or desirable in connection with any of the projects set forth in this section.

6. Any combination of the projects set forth in this section.

Sec. 23.5. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population. *This portion of the plan must set forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission pursuant to section 34 of chapter 531, Statutes of Nevada 2007, at page 3293, if applicable to the region. The provisions of this subsection do not limit or otherwise affect any authority or duty of the State Engineer.*

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) *Set forth a pattern of development consistent with the total population of the region that may be supported by the sustainable water resources described in subsection 1;*

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; ~~*[and*~~

~~*(d)]*~~ *(e)* Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area ~~*[.]*~~ *; and*

(f) Set forth policies that require each applicable master plan of a local government to be consistent with the pattern of development and total population specified in paragraph (c).

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 24. Chapter 350A of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

Sec. 25. NRS 350A.020 is hereby amended to read as follows:

350A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 350A.025 to 350A.125, inclusive, *and section 24 of this act* have the meanings ascribed to them in those sections.

Sec. 26. NRS 350A.070 is hereby amended to read as follows:

350A.070 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds validly issued as obligations for a purpose related to natural resources which are payable:

1. From taxes whether or not additionally secured by any municipal revenues available therefor;

2. For bonds issued by an irrigation district, from assessments against real property;

3. For bonds issued by a water authority organized as a political subdivision created by cooperative agreement, from revenues of the water system of the water authority or one or more of the water purveyors who are members of the water authority or any combination thereof; ~~[or]~~

4. For bonds issued by a wastewater authority, from revenues of the water reclamation system of the wastewater authority or one or more of the municipalities that are members of the wastewater authority, or any combination thereof ~~[.]~~ *; or*

5. For bonds issued by a flood management authority, from revenues of the flood management authority or one or more of the municipalities that are members of the flood management authority, or any combination thereof.

Sec. 27. NRS 350A.080 is hereby amended to read as follows:

350A.080 "Municipality" means any county, city, town, wastewater authority, *flood management authority,* water authority organized as a political subdivision created by cooperative agreement, school district, general improvement district or other district, including an irrigation district.

Sec. 27.5. Section 56 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of ~~[~~~~potential~~~~]~~ *:*

(a) Potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act ~~[.]~~ *; and*

(b) Potential acquisition, control and management by the Commission of a flood management project that is located entirely or partially within the planning area. As used in this paragraph, "flood

management project" has the meaning ascribed to it in section 4 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the

order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 28. *1.* This *section and sections 1 to 23, inclusive, and 24 to 27.5, inclusive, of this* act ~~[becomes]~~ *become* effective upon passage and approval.

2. Section 23.5 of this act becomes effective upon passage and approval only if section 2 of Assembly Bill No. 119 of this session has not become effective on or before that date.

3. Section 27.5 of this act expires by limitation on July 1, 2013.

Senator Lee moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 175.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment inserts provisions found in another measure concerning sustainable water resources that was vetoed by the Governor. We would like to discuss this measure further in a conference committee.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 213.

The following Assembly amendment was read:

Amendment No. 890.

"SUMMARY—Revises the Charter of the City of Sparks to make various changes in provisions concerning city government. (BDR S-462)"

"AN ACT relating to the City of Sparks; amending the Charter of the City of Sparks to revise the process for appointing various positions in city government; revising the selection process for Mayor pro tempore; *requiring that the candidates for Councilman in the City be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;* revising the list of classes of persons protected from employment discrimination by the City; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill revises the Charter of the City of Sparks to permit the City Manager to appoint the heads of departments and various executive, administrative and professional employees without confirmation by the City Council. Sections 4 and 7 of this bill revise the Charter to make consistent the classes of persons protected from employment discrimination.

Under the existing Charter, the City Council elects the Mayor pro tempore from its members. (Sparks City Charter § 3.010) Section 5 of this bill amends the Charter to authorize the Mayor to nominate a member of the City Council to be Mayor pro tempore, subject to the approval of the majority of the City Council. Sections 1 and 5 also clarify that if the office of Mayor is vacant, the Mayor pro tempore shall act as Mayor until the next general election.

The existing Charter also provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Sparks City Charter, §§ 5.010, 5.020) Sections 6.3 and 6.7 of this bill amend the Charter to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 395, is hereby amended to read as follows:

Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council ~~[,]~~ or in the office of City Attorney or Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment made by the Mayor within 30 days after the vacancy occurs, the City Council shall present to the Mayor the names of two qualified persons to fill the vacancy. The Mayor shall, within 15 days after the presentation, select one of the two qualified persons to fill the vacancy. The appointee must have the same qualifications required of the elected official.

2. A vacancy in the office of the Mayor must be filled by the Mayor pro tempore. The resulting vacancy in the City Council must be filled as provided in subsection 1.

3. The appointee or Mayor pro tempore, in *the* case of a vacancy in the office of Mayor, shall serve until his successor is elected and

qualified at the next *general* election to serve the remainder of the unexpired term.

Sec. 2. Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 229, is hereby amended to read as follows:

Sec. 1.080 Appointive positions.

1. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.

2. ~~[Subject to confirmation by the City Council,]~~ *Except as otherwise provided in this Charter,* the City Manager shall appoint ~~[:~~

~~(a) The]~~ *the* heads of ~~[the Fire and Police departments and one technical assistant in each of those departments. A technical assistant may not supervise any other employees.~~

~~(b) Any]~~ *each department.*

3. Except as otherwise provided in this Charter, the City Manager or his designee may appoint any employee employed in a bona fide executive, administrative or professional capacity. As used in this ~~[paragraph:~~

~~(1)]~~ *subsection:*

(a) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.1, as that section existed on October 1, 1993.~~

~~(2)]~~ *541.100.*

(b) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.2, as that section existed on October 1, 1993.~~

~~(3)]~~ *541.200.*

(c) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.3, as that section existed on October 1, 1993.~~

~~3.]~~ *541.300.*

4. The City ~~[Council]~~ *Manager* shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 3. Section 1.100 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 450, Statutes of Nevada 1985, at page 1310, is hereby amended to read as follows:

Sec. 1.100 Mayor and Councilmen not to hold other office.

1. The Mayor and a member of the Council may not:

(a) Hold any other elective office with the State of Nevada, Washoe County, the City of Sparks or any other city, except as provided by law.

(b) ~~[Be]~~ *Except as otherwise provided in subsection 3 of section 3.010, be* appointed to any position created by , or the compensation for which was increased or fixed by , the City Council until 1 year after the expiration of the term for which such person was elected.

2. Any person holding any office proscribed by subsection 1 automatically forfeits his office as Mayor or member of the Council.

Sec. 4. Section 1.130 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 457, Statutes of Nevada 1979, at page 852, is hereby amended to read as follows:

Sec. 1.130 Certain activities prohibited.

1. A person shall not be appointed to or removed from, or in any way favored or discriminated against with respect to , any City position or appointive City administrative office because of race, sex, ~~[religious creed,]~~ *sexual orientation, religion,* color, *age, disability, marital status or* national origin, ~~[ancestry or political affiliations.]~~ *or because of political or personal reasons or affiliations, except when based upon a bona fide occupational qualification.*

2. A person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall not directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

3. A person shall not orally, in writing or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any elected officer of the City or candidate for any City office from any person holding any compensated appointive City position.

4. A person who holds any compensated appointive City position shall not make, solicit or receive any contribution of campaign funds for any elected officer of the City or candidate for any City office or take any part in the management, affairs or political campaign of the candidate.

5. Any person who by himself or with others willfully violates any of the provisions of subsections 1 ~~[to 3, inclusive,]~~ *, 2 or 3* is subject to the jurisdiction of the Justice Court of the Township of Sparks and is guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment for not more than 6 months, or both.

6. Any person who violates any of the provisions of this section shall be ineligible to hold any City office or position for a period of 5 years and, if he is an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 5. Section 3.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 107, Statutes of Nevada 2003, at page 603, is hereby amended to read as follows:

Sec. 3.010 Mayor: Duties; Mayor pro tempore.

1. The Mayor shall:

(a) Preside over the meetings of the City Council, but is not entitled to vote on any procedural, substantive or other matter.

(b) Act as the head of the government of the City for all purposes.

(c) Perform such emergency duties as may be necessary for the general health, welfare and safety of the City.

(d) Perform such other duties as may be prescribed by ordinance or by the provisions of Nevada Revised Statutes which apply to a mayor.

2. The Mayor may veto all matters passed by the City Council if he gives notice in writing to the City Clerk within 10 days of the action taken by the City Council. A veto may be overturned only by a vote of at least four-fifths of the City Council. An action requiring the expenditure of money is not effective without the approval of the Mayor, unless he does not disapprove the action within 10 days after it is taken by the City Council, or the City Council by a four-fifths majority approves such expenditure at a regular meeting.

3. The ~~[City Council shall elect one of its members]~~ *Mayor shall nominate a member of the City Council* to be Mayor pro tempore. *The nominee must be approved by a majority of the total number of members of the City Council. If so approved, the nominee shall be Mayor pro tempore.* He shall:

(a) Hold the office and title until the next *general* election without additional compensation, except as otherwise provided in paragraph (c).

(b) Perform the duties of Mayor during the temporary absence or disability of the Mayor without loss of his rights and powers as a member of the Council.

(c) Act as Mayor until the next *general* election if the office of Mayor becomes vacant and draw the salary of Mayor. His salary and position as a member of the Council cease.

Sec. 6. Section 3.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 450, Statutes of Nevada 1985, at page 1315, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties; residence.

1. The City Manager is responsible to the Council for the efficient administration of all the affairs of the City. He shall:

(a) Exercise a careful supervision of the City's general affairs.

(b) Enforce all laws and all acts of the Council which are subject to enforcement by him or by persons under his supervision.

(c) Exercise control over all departments of the City government and its officers and employees . ~~[, except any department whose chief executive officer is not appointed by the City Manager.]~~

(d) Attend all meetings of the Council and its committees, except when the Council is considering his removal, with the right to take part in discussions, but without power to vote.

(e) Recommend to the Council the adoption of such measures and bills as he considers necessary or expedient.

(f) Make investigations into:

(1) The affairs of the City;

(2) Any department or division of the City;

(3) Any contract; or

(4) The proper performance of any obligation owed to the City.

(g) Prepare and submit to the Council the annual budget.

(h) Keep the Council fully informed as to the financial condition and needs of the City.

(i) Submit to the Council, at least once each month, a summary of all claims and bills approved for payment by him.

(j) Not engage in any other business or occupation without the approval of the City Council.

(k) Perform such other duties as prescribed by this Charter or be required by ordinance or resolution of the Council.

2. The City Manager must establish his residence within the City within 90 days after his appointment, unless the period is extended by the Council. He must reside in the City during his term of office.

Sec. 6.3. Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected , ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the first, third and fifth wards and a City

Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~5.]~~ *2.* On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected ~~, [by the registered voters of the City,]~~ at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[6.]~~ *3.* On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected ~~, [by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[7.]~~ *4.* On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected ~~, [by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8. All candidates at]~~

5. In an election that is held pursuant to this section *:*

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

Sec. 6.7. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. *At an election that is held pursuant to this section:*

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) A candidate for the office of City Councilman must be voted upon *only* by the registered voters of the ward ~~[to be represented by them.]~~ *that he seeks to represent.*

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the

ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 7. Section 9.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 350, Statutes of Nevada 1987, at page 793, is hereby amended to read as follows:

Sec. 9.080 Prohibited acts. An employee of the City who has authority to recommend, effectuate or approve the hiring, removal, promotion or discipline of another employee of the City shall not:

1. Discriminate for or against an employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, marital status, ~~[political affiliation or physical, aural or visual handicap,]~~ *sexual orientation or disability, or because of political or personal reasons or affiliations,* except when based upon a bona fide occupational qualification;

2. Solicit or consider a written or oral recommendation or statement concerning a person under consideration for hiring, removal, promotion or discipline, except for:

(a) A record of employment of the person maintained by an employer in the regular course of business; or

(b) An evaluation of the person's character, loyalty, ability, aptitude, suitability, qualifications or history of performance, if within the personal knowledge of the person furnishing the evaluation and if relevant to the position for which the person is under consideration;

3. Coerce an employee to engage in a political activity or to provide, or retaliate against an employee for refusing to provide, a political contribution or service;

4. Deceive or willfully obstruct a person regarding his right to seek a position of employment;

5. Influence a person to withdraw from seeking a position of employment to assist or obstruct another person who seeks such a position;

6. Except as specifically authorized by an ordinance, administrative rule or regulation, or state or federal law, grant a preference or advantage to an employee or applicant for employment, including defining the scope or manner of competition or the requirements for a position of employment, to assist or obstruct any person who seeks such a position;

7. Retaliate against an employee or applicant for employment for disclosing information he reasonably believes to evidence:

(a) A violation of an ordinance, administrative rule or regulation, or state or federal law; or

(b) A mismanagement or gross waste of money, an abuse of authority, or a situation that presents a substantial and specific danger to the public health or safety, unless the disclosure is:

(1) Specifically prohibited by a contract to which the City is a party and not required by an ordinance, administrative rule or regulation, or state or federal law; or

(2) Prohibited by an ordinance, administrative rule or regulation, or state or federal law; or

8. Retaliate against an employee or applicant for employment for exercising a right of appeal provided by an ordinance, administrative rule or regulation, or state or federal law.

Sec. 8. This act becomes effective ~~[on]~~ *:*

1. Upon passage and approval for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009 ~~[.]~~ *, for all other purposes.*

Senator Lee moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 213.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment inserts language from another bill that was not approved by the Government Affairs Committee regarding the election of Sparks City Council members by ward. We would like to discuss this further in a conference committee.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 269.

The following Assembly amendments were read:

Amendment No. 783.

"SUMMARY—Makes various changes to provisions governing physicians and certain related professions. (BDR 54-757)"

"AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising provisions governing osteopathic medicine; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85 of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. Section 14 of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. Section 17 of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) Section 18 of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) Section 22 of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) Section 25 of this bill authorizes the Executive Director of the Board to issue subpoenas when conducting investigations for the Board. (NRS 630.140) Sections 26-28, 30-32 and 35 of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) Sections 36-38 of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) Section 40 of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) Sections 41-45, 47-49, 53, 54, 57 and 58 of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the

procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. Section 67 adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is ~~[about to violate]~~ *violating* the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. Section 68 also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. Sections 69-78 make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by *a* specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, *perfusionist,* doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; [and]

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any ~~[.]~~ *; and*

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. *1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.*

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. *"Perfusionist" means a person who is licensed to practice perfusion by the Board.*

Sec. 6. *"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.*

Sec. 7. *The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:*

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. *To be eligible for licensing by the Board as a perfusionist, an applicant must:*

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. *1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.*

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. *The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:*

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. *1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.*

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. *1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:*

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. *1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:*

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. *If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.*

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine *, perfusion* and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, *perfusionists,* physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, *perfusionists,* physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, *and sections 4, 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ *, including, but not limited to, the performance of an autopsy.*

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege . ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, *perfusionists*, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or *perfusionist or* practitioner of respiratory care of the Armed Services or a medical officer or *perfusionist or* practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A]~~ person who is employed by a physician and provides respiratory care *or services as a perfusionist* under the supervision of that physician;

~~[(j)]~~ *(i)* The maintenance of medical equipment for *perfusion or* respiratory care that is not attached to a patient; and

~~[(k)]~~ *(j)* A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, *perfusionists,* physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ *January* 1 and terminating on ~~[June 30.]~~ *December 31*.

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau

for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ *3* and ~~[3]~~ *4* of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, *perfusionist,* physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, *perfusionist,* physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of *perfusion or* respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer , *Executive Director* or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays , ~~[and]~~ medical records and other papers ~~[.]~~ *and tangible items*. The Secretary-Treasurer, President or other officer of the Board acting on its behalf *or the Executive Director* must sign the subpoena.

2. If any person fails to comply with the subpoena , ~~[within 10 days after its issuance,]~~ the Secretary-Treasurer , *Executive Director* or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ *(b)* The applicant:

~~[(a)]~~ *(1)* Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ *(2)* Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ *(3)* Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ *(4)* Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ *(c)* Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine *, to practice as a physician assistant or to practice respiratory care* shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to

forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. *Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.*

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. *The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.*

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice , ~~*[within the 10 years immediately preceding the date of the application for the license,]*~~ whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state ~~*[within the 10 years immediately preceding the date of the application for the license]*~~ and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility ~~*[within the 10 years immediately preceding the date of the application for the license]*~~ or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board *may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.*

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the

claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 *1.* In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ *(a)* The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ *(b)* The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ *the Commission.*

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public

agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning

any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ *after* the date of the rejection of his application by the Board. Upon appeal , the applicant has the burden to show that the action of the Board is erroneous . ~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ *:*

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care *; or*

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ *:*

(1) To persons in this State who are indigent, uninsured or unable to afford health care; *or*

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics . ~~[if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.]~~

2. *For the purpose of paragraph (e) of subsection 1, the physician must:*

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ *an authorized facility* license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ *an authorized facility* license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ *an authorized facility* license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ *the* notification, the ~~[restricted]~~ *authorized facility* license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement.....$600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license.....400
For renewal of a limited ~~[, restricted]~~ or special license.....400
For application for and issuance of a license as a physician assistant.....400
For biennial registration of a physician assistant.....800
For biennial registration of a physician.....800
For application for and issuance of a license as a *perfusionist or* practitioner of respiratory care.....400
For biennial renewal of a license as a perfusionist.....600
For biennial registration of a practitioner of respiratory care.....600
For biennial registration for a physician who is on inactive status.....400
For written verification of licensure.....50
For a duplicate identification card.....25
For a duplicate license.....50
For computer printouts or labels.....500
For verification of a listing of physicians, per hour.....20
For furnishing a list of new physicians.....100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[National Board]~~ *Commission on Accreditation of Allied*

Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization;

(d) Be certified by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ *or* is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated ~~[,]~~ or is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ *or which are beyond the scope of his training.*

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe ~~[, unsound,]~~ or unprofessional ~~[or contrary to the public interest.]~~ conduct in accordance with regulations adopted by the Board.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ *within 30 days after the date the licensee knows or has reason to know of the violation.*

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. *Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.*

2. Any ~~[person,]~~ *licensee,* medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ *3.* Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ *the* privileges *of a physician, physician assistant or practitioner of respiratory care* to practice ~~[medicine]~~ while the physician , *physician assistant or practitioner of respiratory care* is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician , *physician assistant or practitioner of respiratory care* concerning the care of a patient or the competency of the physician , *physician assistant or practitioner of respiratory care* within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ *4.* The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ *5.* On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the

previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ *4.*

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, *perfusionist,* physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine *, perfusion* or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to practice while the physician, *perfusionist,* physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, *perfusionist,* physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, *perfusionist,* physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, *perfusionist,* physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a *perfusionist,* physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ *not a physician.* The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by

settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ *or an investigative committee of the Board.*

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 *1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.*

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician *, physician assistant or practitioner of respiratory care* pending proceedings for disciplinary action and requires the physician *, physician assistant or practitioner of respiratory care* to submit to a mental or physical examination or an examination testing his competence to practice *,* ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, *perfusionist,* physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, *perfusionist,* physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may

summarily suspend the license of the physician, *perfusionist,* physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, *perfusionist,* physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, *perfusionist,* physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine , *perfusion* or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine , *perfusion* or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ *by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.*

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ *5. A formal hearing must be held at the time and date set at the early case conference by:*

(a) The Board ~~[, a]~~ *;*

(b) A hearing officer ~~[or a]~~ *;*

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members *of the Board* designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ *an investigative committee of the Board or the Board;*

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ *panel must* not *be* a physician . ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ *licensee's* receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[physician]~~ *licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against a ~~[physician]~~ *licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. *Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.*

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine *, perfusion* or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[except for an advisory]~~ *other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any* member serving on a panel of the Board *at the* hearing ~~[charges,]~~ *of the matter,* may participate in *an adjudication to obtain* the final order of the Board. ~~[If the Board, after a formal hearing, determines from a preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.]~~ *At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:*

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ *The Board may limit the time within which the parties and the complainant may make their arguments and statements.*

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If *, in the findings of fact and conclusions of law, the Board, hearing officer or panel of* the Board determines that no violation has occurred, ~~[it]~~ *the Board* shall dismiss the charges, in writing, and notify the ~~[physician]~~ *respondent* that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.]~~ *4.* Except as otherwise provided in subsection ~~[4,]~~ *5,* if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a *written* public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license *;* ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ *for each violation;*

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ *5.* If the Board finds that the ~~[physician]~~ *respondent* has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ *6.* The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ *7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.* An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ *4* or ~~[4]~~ *5* of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine , *perfusion* or respiratory care has been limited; or

(b) Whose license to practice medicine , *perfusion* or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine , *perfusion* or respiratory care by physicians , *perfusionists* or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine , *perfusion* or respiratory care;

(c) To limit the practice of a physician, *perfusionist,* physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ *; or*

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine , *perfusion or respiratory care* without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine , *perfusion* or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine , *perfusion* or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine , *perfusion* or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by *a* specific statute, practices medicine , *perfusion* or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, *perfusion,* respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, *perfusionist,* physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. *1. If the Board has reason to believe that a person has violated* ~~[,]~~ *or is violating* ~~[or is about to violate]~~ *any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.*

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that

the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. *In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.*

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ *, other than the use of silicone oil to repair a retinal detachment.*

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine *or perfusion* pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ *:*

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ *; and*

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ *may* be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine . ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ *Malpractice or gross* malpractice, which may be evidenced by ~~[claims]~~ *a claim* of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. *If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.*

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ *licensee's* receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ *a licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ *a licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ *any* other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, *an employee or volunteer of a diversion program specified in NRS 633.561,* or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a *perfusionist, a* physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a *perfusionist or a* physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of

NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by

a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, *perfusionist*, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer,

advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if

obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, *54.5,* 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ *shall, except for good cause,* issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect ~~[;~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.]~~ *and unrestricted; and*

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Amendment No. 905.

"SUMMARY—Makes various changes to provisions governing physicians and certain related professions. (BDR 54-757)"

"AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising provisions governing osteopathic medicine ~~[;]~~ *and psychologists;* providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85 of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. Section 14 of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. Section 17 of this bill expands the definition of "practice of medicine" to

include the performance of an autopsy. (NRS 630.020) Section 18 of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) Section 22 of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) Section 25 of this bill authorizes the Executive Director of the Board to ~~[issue]~~ *sign* subpoenas ~~[when conducting]~~ *issued in connection with hearings and* investigations ~~[for]~~ *conducted by* the Board. (NRS 630.140) Sections 26-28, 30-32 and 35 of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) Sections 36-38 of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) Section 40 of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) Sections 41-45, 47-49, 53, 54, 57 and 58 of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. Section 67 adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is violating the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. Section 68 also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. Sections 69-78 make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

Section 78.1 of this bill defines "national examination" to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners.

Section 78.3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a

complete set of fingerprints and written permission authorizing the Board of Psychological Examiners to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints.

Existing law provides that the Board of Psychological Examiners may require an applicant for a license to pass an oral examination in whatever applied or theoretical fields it deems appropriate, in addition to a written examination. Section 78.4 of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the right of the applicant to request that the Board review his examination if he fails the examination.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by *a* specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, *perfusionist,* doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; [and]

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any [.] *; and*

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. *1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.*

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. *"Perfusionist" means a person who is licensed to practice perfusion by the Board.*

Sec. 6. *"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.*

Sec. 7. *The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:*

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. *To be eligible for licensing by the Board as a perfusionist, an applicant must:*

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. *1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.*

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. *The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:*

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. *1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.*

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. *1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:*

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. *1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:*

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. *If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.*

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine *, perfusion* and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, *perfusionists,* physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, *perfusionists,* physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, *and sections 4, 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ *, including, but not limited to, the performance of an autopsy.*

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege . ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, *perfusionists*, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or *perfusionist or* practitioner of respiratory care of the Armed Services or a medical officer or *perfusionist or* practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A]~~ person who is employed by a physician and provides respiratory care *or services as a perfusionist* under the supervision of that physician;

~~[(j)]~~ *(i)* The maintenance of medical equipment for *perfusion or* respiratory care that is not attached to a patient; and

~~[(k)]~~ *(j)* A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, *perfusionists,* physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ *January* 1 and terminating on ~~[June 30.]~~ *December 31*.

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau

for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ *3* and ~~[3]~~ *4* of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, *perfusionist,* physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, *perfusionist,* physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of *perfusion or* respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer ~~*[, Executive Director]*~~ or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays , ~~[and]~~ medical records and other papers ~~[.]~~ *and tangible items.* The Secretary-Treasurer, President or other officer of the Board acting on its behalf *or the Executive Director* must sign the subpoena.

2. If any person fails to comply with the subpoena , ~~[within 10 days after its issuance,]~~ the Secretary-Treasurer , *Executive Director* or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ *(b)* The applicant:

~~[(a)]~~ *(1)* Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ *(2)* Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ *(3)* Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ *(4)* Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ *(c)* Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine *, to practice as a physician assistant or to practice respiratory care* shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to

forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. *Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.*

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. *The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.*

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board *may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.*

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 *1.* In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ *(a)* The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ *(b)* The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ *the Commission.*

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is

not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ *after*

the date of the rejection of his application by the Board. Upon appeal , the applicant has the burden to show that the action of the Board is erroneous .~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ *:*

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care *; or*

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ *:*

(1) To persons in this State who are indigent, uninsured or unable to afford health care; *or*

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics . ~~[if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.]~~

2. *For the purpose of paragraph (e) of subsection 1, the physician must:*

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ *an authorized facility* license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ *an authorized facility* license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ *an authorized facility* license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ *the* notification, the ~~[restricted]~~ *authorized facility* license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement.....$600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license.....400
For renewal of a limited ~~[, restricted]~~ or special license.....400
For application for and issuance of a license as a physician assistant.....400
For biennial registration of a physician assistant.....800
For biennial registration of a physician.....800
For application for and issuance of a license as a *perfusionist or* practitioner of respiratory care.....400
For biennial renewal of a license as a perfusionist.....600
For biennial registration of a practitioner of respiratory care.....600
For biennial registration for a physician who is on inactive status.....400
For written verification of licensure.....50
For a duplicate identification card.....25
For a duplicate license.....50
For computer printouts or labels.....500
For verification of a listing of physicians, per hour.....20
For furnishing a list of new physicians.....100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor*

organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(d) Be certified by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ *or* is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation

agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ *or which are beyond the scope of his training.*

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ *within 30 days after the date the licensee knows or has reason to know of the violation.*

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. *Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes*

processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any ~~[person,]~~ *licensee,* medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ *3.* Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ *the* privileges *of a physician, physician assistant or practitioner of respiratory care* to practice ~~[medicine]~~ while the physician , *physician assistant or practitioner of respiratory care* is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician , *physician assistant or practitioner of respiratory care* concerning the care of a patient or the competency of the physician , *physician assistant or practitioner of respiratory care* within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ *4.* The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ *5.* On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ *4.*

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, *perfusionist,* physician assistant or practitioner of respiratory care on a form provided by

the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine , *perfusion* or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to practice while the physician, *perfusionist,* physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, *perfusionist,* physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, *perfusionist,* physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, *perfusionist,* physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a *perfusionist,* physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ *not a physician.* The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ *or an investigative committee of the Board.*

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 *1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.*

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician *, physician assistant or practitioner of respiratory care* pending proceedings for disciplinary action and requires the physician *, physician assistant or practitioner of respiratory care* to submit to a mental or physical examination or an examination testing his competence to practice *,* ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, *perfusionist,* physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, *perfusionist,* physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, *perfusionist,* physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, *perfusionist,* physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, *perfusionist,* physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine , *perfusion* or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine , *perfusion* or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ *by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.*

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ *5. A formal hearing must be held at the time and date set at the early case conference by:*

(a) The Board ~~[, a]~~ *;*

(b) A hearing officer ~~[or a]~~ *;*

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members *of the Board* designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ *an investigative committee of the Board or the Board;*

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ *panel must* not *be* a physician . ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ *licensee's* receipt of notification of the initiation of the

disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[physician]~~ *licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against a ~~[physician]~~ *licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. *Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.*

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine *, perfusion* or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[except for an advisory]~~ *other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any* member serving on a panel of the Board *at the* hearing ~~[charges,]~~ *of the matter,* may participate in *an adjudication to obtain* the final order of the Board. ~~[If the Board, after a formal hearing, determines from a~~

~~preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.]~~ *At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:*

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ *The Board may limit the time within which the parties and the complainant may make their arguments and statements.*

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If *, in the findings of fact and conclusions of law, the Board, hearing officer or panel of* the Board determines that no violation has occurred, ~~[it]~~ *the Board* shall dismiss the charges, in writing, and notify the ~~[physician]~~ *respondent* that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.]~~ *4.* Except as otherwise provided in subsection ~~[4,]~~ *5*, if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a *written* public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license *;* ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ *for each violation;*

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ *5.* If the Board finds that the ~~[physician]~~ *respondent* has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ *6.* The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ *7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.* An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ *4* or ~~[4]~~ *5* of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine , *perfusion* or respiratory care has been limited; or

(b) Whose license to practice medicine , *perfusion* or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine , *perfusion* or respiratory care by physicians , *perfusionists* or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine , *perfusion* or respiratory care;

(c) To limit the practice of a physician, *perfusionist,* physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care,

when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ *; or*

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine *, perfusion or respiratory care* without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine *, perfusion* or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine *, perfusion* or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine *, perfusion* or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by *a* specific statute, practices medicine *, perfusion* or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, *perfusion,* respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, *perfusionist*, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. *1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.*

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. *In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.*

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ *, other than the use of silicone oil to repair a retinal detachment.*

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine *or perfusion* pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ *:*

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ *; and*

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ *may* be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine . ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ *Malpractice or gross* malpractice, which may be evidenced by ~~[claims]~~ *a claim* of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. *If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.*

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ *licensee's* receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ *a licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ *a licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ *any* other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, *an employee or volunteer of a diversion program specified in NRS 633.561,* or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 78.1. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

"National examination" means the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.

Sec. 78.2. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, *and section 78.1 of this act* have the meanings ascribed to them in those sections.

Sec. 78.3. NRS 641.160 is hereby amended to read as follows:

641.160 *1.* Each person desiring a license must ~~[make]~~ *:*

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of his application and at his own expense:

(1) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background,

and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 2 of NRS 641.170 until the Board receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 78.4. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license must pass the ~~[Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.]~~ *national examination.* In addition to ~~[this written]~~ *the national* examination, the Board may require an ~~[oral]~~ examination in whatever applied or theoretical fields it deems appropriate.

2. ~~[The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.~~

~~3.]~~ The Board shall notify each applicant of the results of his ~~[written]~~ *national* examination and ~~[supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.~~

~~4. If an applicant fails the examination, he may request in writing that the Board review his examination.~~

~~5.]~~ *any other examination required pursuant to subsection 1.*

3. The Board may waive the requirement of ~~[a written]~~ *the national* examination for a person who:

(a) Is licensed in another state;

(b) Has *at least* 10 ~~[years]~~ *years'* experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 78.5. *NRS 641.370 is hereby amended to read as follows:*

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the ~~[written]~~ *national* examination, in addition to the actual cost to the Board of the examination.....$100

For ~~[the special oral]~~ *any other* examination ~~[,]~~ *required pursuant to the provisions of subsection 1 of NRS 641.180,* in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license.....25

For the biennial renewal of a license 500

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license.....100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology.....300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the *national* examination and *any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who* is eligible for a license shall pay the biennial fee for the renewal of a license , which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a *perfusionist, a* physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a *perfusionist or a* physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or

upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner,

who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, *perfusionist*, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to

whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse,

dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner

or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that

date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, *78.1 to 78.5, inclusive,* 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, 54.5, 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

HEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ *shall, except for good cause,* issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect ~~[;~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.]~~ *and unrestricted; and*

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Senator Carlton moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 269.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 411.

The following Assembly amendment was read:

Amendment No. 840.

"SUMMARY—Revises provisions governing ~~[the issuance of]~~ hunting, fishing and trapping. ~~[licenses.]~~ (BDR 45-1177)"

"AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; *making it unlawful intentionally to remove, disturb or interfere with the trap of a holder of a trapping license under certain circumstances; providing a penalty;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a license, permit or privilege of a person to hunt, fish or trap may be suspended or revoked for wildlife convictions, but not for more than 3 years except in certain circumstances. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be suspended or revoked for more than 5 years; and (2) a felony may not be suspended or revoked for more than 10 years. (NRS 501.1816) Section 2 of this bill expands the suspension and revocation penalties to require that the license, permit or privilege of a person who has been convicted of two or more felonies pursuant to NRS 501.376 be permanently revoked.

Existing law requires that a person meet certain requirements before he can be issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS 502.015) Section 3 of this bill clarifies the language regarding domicile to mean maintaining a principal and permanent residence in this State beyond just owning a home in Nevada.

Existing law prohibits giving a false statement or furnishing false information to obtain any license, tag or permit, making such an action a misdemeanor, or to obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060) Section 4 of this bill adds a provision that any person who is convicted of giving a false statement or furnishing false information to obtain a license, tag, permit or big game tag forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing.

Existing law requires a person attempting to obtain a license, tag or permit on behalf of another person to have a power of attorney giving him the authority to do so. (NRS 502.061) Section 5 of this bill restricts the requirement to have a power of attorney to only those persons attempting to acquire a license, tag or permit on behalf of another for a fee or other compensation.

Existing law makes it unlawful for a person to remove or disturb the trap of a holder of a trapping license while the trap is being used by the trapper on public land or on land where he has permission to trap. (NRS 503.454) If a person commits such a violation, he is guilty of a misdemeanor punishable by a fine of not less than $50 or more than $500, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment. (NRS 501.385) Section 6 of this bill revises existing law by making it unlawful for a person intentionally to remove, disturb or interfere with the trap of the holder of the trapping license. Section 6 defines the phrase "interfere with" to mean any act that physically impedes, hinders or obstructs the trap.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points established by regulation of the Commission for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the ~~[violation]~~ *conviction* shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 2. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If,

after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:

(a) A gross misdemeanor may not be suspended or revoked for more than 5 years; ~~[or]~~

(b) ~~[A]~~ *Except as otherwise provided in paragraph (c), a* felony may not be suspended or revoked for more than 10 years ~~[.]~~ *; or*

(c) Two or more felonies, arising from separate events, must be permanently revoked.

6. If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the Commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 3. NRS 502.015 is hereby amended to read as follows:

502.015 1. For the purpose of issuing and using resident licenses, tags or permits pursuant to this chapter, a person is considered to be a resident of the State of Nevada if:

(a) He is a citizen of, or is lawfully entitled to remain in, the United States; and

(b) During the 6 months next preceding his application to the Department for a license, tag or permit, he:

(1) ~~[Was domiciled]~~ *Maintained his principal and permanent residence* in this State;

(2) Was physically present in this State, except for temporary absences; and

(3) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

2. A person who ~~[is not domiciled]~~ *does not maintain his principal and permanent residence* in Nevada but who is attending an institution of higher learning in this State as a full-time student is eligible for a resident license, tag or permit if, during the 6 months next preceding his application to the Department for a license, tag or permit, he:

(a) Was physically present in Nevada, except for temporary trips outside of the State; and

(b) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

3. A resident license, tag or permit issued by this State is void if the person to whom it was issued establishes *or maintains* his ~~[domicile]~~ *principal and permanent residence* in and obtains any *hunting, fishing or trapping* privilege or entitlement conditional on residency from another state, country or province.

4. As used in this section, "principal and permanent residence" means a place where a person is legally domiciled and maintains a permanent habitation in which he lives and to which he intends to return when he leaves the state in which the permanent habitation is located. The term does not include merely owning a residence in a state.

Sec. 4. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, *tag or permit,* as provided in this chapter, shall give to the license agent his name and residence address, which must be entered by the license agent ~~[on the license and stub,]~~ *, manually or electronically in a record specified by the Department,* together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. *Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.*

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. NRS 502.061 is hereby amended to read as follows:

502.061 1. A person *, for a fee or other form of compensation,* may obtain or attempt to obtain on behalf of an applicant any license, tag or permit issued pursuant to this chapter *only* if the person acts pursuant to a power of attorney or other written instrument that:

(a) Provides that the power of attorney or other written instrument is executed for the sole purpose of authorizing the person to apply in the State of Nevada on behalf of the applicant for a license, tag or permit for a specific season;

(b) Provides that the power of attorney or other written instrument expires on February 28 of the year following the year in which the power of attorney or other written instrument is executed; and

(c) Is acknowledged and includes a jurat as defined in NRS 240.0035, or is otherwise certified.

2. Any license, tag or permit which is obtained by the use of a power of attorney or other written instrument that does not comply with the provisions of subsection 1 is void.

Sec. 6. NRS 503.454 is hereby amended to read as follows:

503.454 1. Every person who takes fur-bearing mammals by any legal method or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.

2. It is unlawful *intentionally* to remove , ~~[or]~~ disturb *or interfere with* the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where he has permission to trap. *As used in this subsection, "interfere with" means any act that physically impedes, hinders or obstructs the trap.*

~~[Sec. 6.]~~ *Sec. 7.* This act becomes effective on January 1, 2010.

Senator Mathews moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 411.

Remarks by Senator Mathews.

Senator Mathews requested that her remarks be entered in the Journal.

This bill is about illegal trapping and the penalty for that. The Division of Wildlife disagreed with the amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 24, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Carlton and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 24.

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 140, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Carlton, Copening and Townsend as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 140.

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 202, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

We have come to an agreement on where we need to be on this bill. We would like to go to conference so that we may put some new language into the bill.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Carlton, Parks and Amodei as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 202.

RECEDE FROM SENATE AMENDMENTS

Senator Care moved that the Senate do not recede from its action on Assembly Bill No. 309, that a conference be requested, and that

Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Amodei, Care and Wiener as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 309.

RECEDE FROM SENATE AMENDMENTS

Senator Care moved that the Senate do not recede from its action on Assembly Bill No. 320, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This is the bill that deals with guardianships. We added some language dealing with monitoring devices. We are not receding from the amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators McGinness, Copening and Care as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 320.

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 454, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Carlton, Copening and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 454.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 45, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 587 of the Assembly be concurred in.

TERRY CARE	RUBEN J. KIHUEN
ALLISON COPENING	TICK SEGERBLOM
VALERIE WIENER	DON GUSTAVSON
Senate Conference Committee	*Assembly Conference Committee*

Senator Care moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 45.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

We will not put anything in any conference committee reports that the committees have not already discussed. There will be no last-minute additions to the language. The Assembly, at the insistence of the Attorney General's Office, deleted two sections owing to double-jeopardy concerns dealing with civil fines in addition to criminal sanctions following a conviction. We went along with that.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 54, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 647 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises the qualifications of the State Health Officer. (BDR 40-336)"

"AN ACT relating to public health; revising provisions governing the State Health Officer; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Health Officer to be a citizen of the United States and to be licensed, or eligible for licensure, as a physician or administrative physician in Nevada. (NRS 439.090) Section 1 of this bill revises those qualifications by requiring the State Health Officer to be a citizen of the United States, to have not less than 5 years' experience in population-based health care and to be *:* ~~[either:]~~ (1) licensed or eligible for a license as a physician or administrative physician in Nevada; ~~[or]~~ (2) ~~[a]~~ licensed *or eligible for a license as a* physician or ~~[licensed]~~ administrative physician in another state *; or (3) a physician or administrative physician* with a master's or doctoral degree in public health or a related field. Section 2 of this bill provides that if the State Health Officer is not licensed to practice medicine in this State, he shall not, while carrying out his duties, engage in the practice of medicine. (NRS 439.130)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 439.090 is hereby amended to read as follows:

439.090 1. The State Health Officer must:

(a) Be a citizen of the United States ~~[.]~~ *;*

(b) *Have not less than 5 years' experience in population-based health care; and*

(c) Be ~~[licensed,]~~ *:*

(1) Licensed in good standing or eligible for ~~[licensure,]~~ *a license* as a physician or administrative physician in Nevada ~~[.]~~ *;* ~~*[or]*~~

(2) Licensed in good standing or eligible for a license as a physician or administrative physician ~~[by]~~ in the District of Columbia or in any state or territory of the United States ~~[and have]~~ ; or

(3) A physician or administrative physician who has a master's degree or doctoral degree in public health or a related field.

2. The Administrator must have 2 years' experience, or the equivalent, in a responsible administrative position in:

(a) A full-time county or city health facility or department; or

(b) A major health program at a state or national level.

3. As used in this section, "population-based health care" means the use of various approaches to medical care for specific groups or populations based upon common demographic characteristics, risk factors or diseases.

Sec. 2. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

(a) Enforce all laws and regulations pertaining to the public health.

(b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.

(c) Direct the work of subordinates and may authorize them to act in his place and stead.

(d) Perform such other duties as the Director may, from time to time, prescribe.

➥ *If the State Health Officer is not licensed to practice medicine in this State, he shall not, in carrying out his duties as the State Health Officer, engage in the practice of medicine.*

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 3. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on the effective date of this act, is serving as the State Health Officer and who is otherwise qualified to serve as the State Health Officer on that date may continue to serve in that capacity until his successor is appointed by the Director of the Department of Health and Human Services pursuant to chapter 439 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

VALERIE WIENER	SHEILA LESLIE
JOYCE WOODHOUSE	DEBBIE SMITH
DENNIS NOLAN	JOSEPH P. HARDY
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 54.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

This measure deals with selecting the State Health Officer. It would allow Mike Willden, Director of Health and Human Services, expanded opportunities in his search for the State Health Officer. The amendment expands the requirements and provides a broader field for a more effective search.

Motion carried by a constitutional majority.

REMARKS FROM THE FLOOR

Senator Horsford requested that his remarks be entered in the Journal.

It gives me great pleasure today to honor and recognize one of the most humble members of this body, the Senate, for his outstanding service to our country: Senator Terry Care.

Senator Care entered the United States Army in 1966 and was commissioned as a Second Lieutenant after graduating from Infantry Officer Candidate School at Fort Benning, Georgia, in 1967. He subsequently graduated from the Army's Ranger School and was sent to Vietnam in March of 1968 with the 46th Infantry out of Fort Hood, Texas. Senator Care served in the Vietnam War, on two separate tours, as an Infantry Platoon Leader and a Company Commander. Senator Care was awarded two Purple Hearts before medically retiring from the Army as a First Lieutenant in 1969. Senator Care is also the recipient of a Bronze Star Medal for acts of bravery while serving in Vietnam.

The Purple Heart is a United States military decoration, awarded in the name of the President, to those who have been wounded or killed while serving with the United States Armed Forces. Introduced as the "Badge of Military Merit" by General George Washington in 1782, the Purple Heart is the Nation's oldest military award and is one of the most recognized and respected medals awarded to members of the United States Armed Forces.

Upon the passage of Assembly Bill No. 353 by the 1991 Nevada Legislature, the Nevada Department of Motor Vehicles began issuing special license plates to honor Nevada veterans who are Purple Heart recipients. In all of the years that have passed since the passage of

Assembly Bill No. 353, Senator Care is the first Nevada State Senator to receive such a license plate. It is my distinct honor and pleasure to present this license plate to him today.

I would like to thank Martha Barnes, Kim McCutheon, Jackie Cobb and Bruce Manning at the Nevada Department of Motor Vehicles for creating this one-of-a-kind license plate for Senator Care. I would also like to extend many thanks to Mrs. Care who was involved, every step of the way, in the creation of this special license plate for Senator Care.

May the record reflect today that Senator Care is a true Nevada hero for his selfless service in the United States Army and for his service in the Nevada State Legislature. Congratulations, Senator Terry Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you, Mr. President. I am honored and surprised, and I have a feeling that my First Sergeant, sitting next to me, had something to do with this. I love her.

I look at this license plate, and I do not know if it is because of Vietnam or because of my service in this Session. For that, we all qualify.

Times were much different then. When you came home, they dropped you off at a bus depot or an airport or they just shoved you out of the front door of the hospital, and you were on your own. There are six other members of this body, here, who have worn the uniform. We have all gone through different experiences. I am proud to know that today men and women coming back from the War on Global Terrorism are treated much differently. There is a comfort system, an adjustment system available today. Serving on the Nevada Veterans' Services Commission, I know that the veterans of this State are appreciative of what the Legislature has done in the way of service to its veterans.

The war was a long time ago. I am grateful for the kind words of the Majority Leader who has been superb this Session. It was a long time ago, and after 40 years, I will take this, and I do appreciate it. Thank you.

SECOND READING AND AMENDMENT

Senate Bill No. 3.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 941.

"SUMMARY—Creates the Legislative Committee on Child Welfare and Juvenile Justice. (BDR 17-213)"

"AN ACT relating to legislative affairs; creating the Legislative Committee on Child Welfare and Juvenile Justice; prescribing the powers and duties of the Committee; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill creates the Legislative Committee on Child Welfare and Juvenile Justice and provides for the appointment of its membership by the Legislative Commission. Section 4 of this bill prescribes the manner in which meetings must be conducted by the Committee and provides for the compensation of its members. Section 5 of this bill prescribes the duties of the Committee, including the evaluation and review of issues relating to child welfare services and juvenile justice in this State. Sections 6 and 7 of this bill authorize the Committee to conduct investigations and hold hearings and provide for the administration of oaths, the deposition of witnesses and the issuance of subpoenas in connection with those investigations and hearings. *Section 9 of this bill provides that the members of the Committee will be*

appointed following the 2011 Legislative Session, unless before then a sufficient amount of money is collected through gifts, grants and donations to establish and provide administrative support for the Committee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Child Welfare and Juvenile Justice.*

Sec. 3. *1. The Legislative Committee on Child Welfare and Juvenile Justice is hereby created. The membership of the Committee consists of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission.*

2. The Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next regular session of the Legislature.

4. A vacancy on the Committee must be filled in the same manner as the original appointment.

Sec. 4. *1. The members of the Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Committee.*

2. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the work of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

➥ *The compensation, per diem allowances and travel expenses of the members of the Committee must be paid from the Legislative Fund.*

Sec. 5. *The Committee shall evaluate and review issues relating to:*

1. The provision of child welfare services in this State, including, without limitation:

(a) Programs for the provision of child welfare services;

(b) Licensing and reimbursement of providers of foster care;

(c) Mental health services; and

(d) Compliance with federal requirements regarding child welfare; and

2. Juvenile justice in this State, including, without limitation:

(a) The coordinated continuum of care in which community-based programs and services are combined to ensure that health services, substance abuse treatment, education, training and care are compatible with the needs of each juvenile in the juvenile justice system;

(b) Individualized supervision, care and treatment to accommodate the individual needs and potential of the juvenile and his family, and treatment programs which integrate the juvenile into situations of living and interacting that are compatible with a healthy, stable and familial environment;

(c) Programs for aftercare and reintegration in which juveniles will continue to receive treatment after their active rehabilitation in a facility to prevent the relapse or regression of progress achieved during the recovery process;

(d) Overrepresentation and disparate treatment of minorities in the juvenile justice system, including, without limitation, a review of the various places where bias may influence decisions concerning minorities;

(e) Gender-specific services, including, without limitation, programs for female juvenile offenders which consider female development in their design and implementation and which address the needs of females, including issues relating to:

(1) Victimization and abuse;

(2) Substance abuse;

(3) Mental health;

(4) Education; and

(5) Vocational and skills training;

(f) The quality of care provided for juvenile offenders in state institutions and facilities, including, without limitation:

(1) The qualifications and training of staff;

(2) The documentation of the performance of state institutions and facilities;

(3) The coordination and collaboration of agencies; and

(4) The availability of services relating to mental health, substance abuse, education, vocational training and treatment of sex offenders and violent offenders;

(g) The feasibility and necessity for the independent monitoring of state institutions and facilities for the quality of care provided to juvenile offenders; and

(h) Programs developed in other states which provide a system of community-based programs that place juvenile offenders in more specialized programs according to the needs of the juveniles.

Sec. 6. *1. The Committee may:*

(a) Conduct investigations and hold hearings in connection with its duties pursuant to section 5 of this act;

(b) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee; and

(c) Propose recommended legislation concerning child welfare and juvenile justice to the Legislature.

2. The Committee shall, on or before January 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the evaluation and review conducted pursuant to section 5 of this act.

Sec. 7. *1. If the Committee conducts investigations or holds hearings pursuant to section 6 of this act:*

(a) The Chairman of the Committee or, in his absence, a member designated by the Committee may administer oaths;

(b) The Chairman of the Committee may cause the deposition of witnesses, residing within or outside of this State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts; and

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the

required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 8. *Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.*

Sec. 9. 1. Except as otherwise provided in this section, the Legislative Commission shall appoint the members of the Legislative Committee on Child Welfare and Juvenile Justice created pursuant to section 3 of this act following the 2011 Legislative Session.

2. The Director of the Legislative Counsel Bureau shall accept gifts, grants and donations to establish and provide administrative support for the Legislative Committee on Child Welfare and Juvenile Justice. The money must be accounted for separately in the Legislative Fund.

3. If the Director of the Legislative Counsel Bureau determines that sufficient money has been collected to establish and provide administrative support for the Legislative Committee on Child Welfare and Juvenile Justice before the adjournment sine die of the 2011 Legislative Session, the Director must notify the Legislative Commission.

4. If the Legislative Commission agrees with the Director that a sufficient amount of money has been collected, the Legislative Commission shall appoint the members of the Legislative Committee on Child Welfare and Juvenile Justice to serve until appointments are made following the 2011 Legislative Session.

~~[Sec. 9.]~~ *Sec. 10.* This act becomes effective upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Amendment No. 941 to Senate Bill No. 3 provides that the Legislative Commission shall appoint the members of the Committee on Child Welfare and Juvenile Justice following the adjournment of the 2011 Legislature. However, the amendment also authorizes the Director of the Legislative Counsel Bureau to receive gifts, grants and donations on behalf of the Committee on Child Welfare and Juvenile Justice. Upon a determination that there are funds from these sources sufficient for its operation, the Legislative Commission may appoint members for the Committee to begin its work prior to the adjournment of the 2011 Legislative Session.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 143.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 966.

"SUMMARY—Creates ~~[a subcommittee of the Interim Finance]~~ *the Legislative* Committee *for Federal Stimulus Oversight* to oversee the use of money allocated to the State from the Federal Government to stimulate the economy. (BDR S-1034)"

"AN ACT relating to state financial administration; creating ~~[a subcommittee of the Interim Finance]~~ *the Legislative* Committee *for Federal Stimulus Oversight* to oversee the use of money allocated to the State from the Federal Government to stimulate the economy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The United States Congress passed the "American Recovery and Reinvestment Act of 2009" which includes allocations of money to states. Section 1 of this bill creates ~~[a subcommittee of the Interim Finance]~~ *the Legislative* Committee *for Federal Stimulus Oversight* to oversee the use of the money allocated to this State. Section 2 of this bill sets out the duties of the ~~[subcommittee]~~ *Committee* which include considering proposals and plans for the use of allocated funds to ensure that the use maximizes the goals of the State, examining the possibility of participating in certain programs offered by the Federal Government, monitoring spending for transportation and public works projects, and ensuring that more and higher paying jobs are created. Section 3 of this bill requires the ~~[subcommittee]~~ *Committee* to hold entities that receive federal funds accountable for the appropriate and effective use of the money allocated to them and authorizes the ~~[subcommittee]~~ *Committee* to require the redirection of the use of money within a program if it determines that the allocation is not being used in the most effective manner.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. There is hereby created ~~[a subcommittee of the Interim Finance]~~ *the Legislative* Committee *for Federal Stimulus Oversight* to oversee the use of funds allocated from money that is received by the State of Nevada from the Federal Government pursuant to the "American Recovery and Reinvestment Act of 2009" to stimulate the economy consisting of:

(a) Five members who are Senators, three of whom are appointed by the Majority Leader of the Senate and two of whom are appointed by the Minority Leader of the Senate; and

(b) Five members who are Assemblymen, three of whom are appointed by the Speaker of the Assembly and two of whom are appointed by the Minority Leader of the Assembly.

2. The members of the ~~[subcommittee]~~ *Committee* shall select a Chairman from one House of the Legislature and a Vice Chairman from the other.

3. Vacancies on the ~~[subcommittee]~~ *Committee* must be filled in the same manner as original appointments.

Sec. 2. 1. The ~~[subcommittee]~~ *Legislative Committee on Federal Stimulus Oversight* shall consider proposals and plans for the use of allocated funds described in section 1 of this act to ensure that the use maximizes the goals of the State to improve the state system of public education and the Nevada System of Higher Education, to provide greater access to health insurance and health care, to deliver social services in a more efficient manner, to provide for more efficient use of energy and to create more jobs.

2. The ~~[subcommittee]~~ *Committee* shall examine programs offered by the Federal Government as part of the incentives made available to states to stimulate the economy to determine whether it is beneficial and feasible for the State of Nevada to participate in such programs. Such programs may include, without limitation, a program to allow recently unemployed persons to participate in Medicaid and programs that provide for enhancements of other existing programs.

3. The ~~[subcommittee]~~ *Committee* shall monitor the spending of allocated funds for transportation projects and public works projects to ensure that such projects provide for the maximum increase in job opportunities made available in this State.

4. The ~~[subcommittee]~~ *Committee* shall review the plans of state agencies for spending allocated funds, including, without limitation, plans for spending money designated for:

(a) The state system of public education and higher education;
(b) Medicaid;
(c) Mental health and developmental services;
(d) Child and family services;
(e) Temporary Assistance to Needy Families; and
(f) Other services provided by State Government.

5. The ~~[subcommittee]~~ *Committee* shall review grants that are proposed under various federal programs, establish priorities for the use of any money from such grants that is made available to the State and ensure that any such money is distributed in an equitable manner based on need.

6. The ~~[subcommittee]~~ *Committee* shall review the proposed utilization of the money received through grants from the Federal Government for job training that is focused on energy efficiency and weatherization of homes, schools and other public buildings to ensure that it creates more and higher paying jobs in this State.

Sec. 3. 1. The ~~[subcommittee]~~ *Legislative Committee for Federal Stimulus Oversight* shall provide a manner of holding each entity that receives an allocation of funds described in section 1 of this act accountable for the appropriate and effective use of the money. Each such entity shall report to the ~~[subcommittee]~~ *Committee* at such times and intervals as requested by the ~~[subcommittee]~~ *Committee* concerning the manner in which the money is used, the number of jobs that are created as a result of the

money, if applicable, other improvements that result from the use of the money and such other information as requested by the ~~[subcommittee.]~~ *Committee*.

2. If the ~~[subcommittee]~~ *Committee* determines that money that has been allocated is not being used in the most effective manner, the ~~[subcommittee]~~ *Committee* may require that the remaining money from the allocation be redirected to a more effective use within the program for which the money was allocated.

Sec. 4. This act becomes effective upon passage and approval and expires by limitation on June 30, 2011.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

The amendment establishes the Legislative Committee for Federal Stimulus Oversight. This is a process that is an addition to the Interim Finance Committee and the Legislative Commission, where several measures that have already been processed require reports to those entities. This ensures that any agency that receives federal stimulus dollars will report to the Special Legislative Committee on Federal Stimulus Oversight so that we have full accountability on how those funds are utilized.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 148.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 959.

"SUMMARY—Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)"

"AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of section 10. Section 8.5 of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.

Section 11 of this bill requires employers to *suspend or* terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired. Section 12 of this bill provides for administrative fines for employers who ~~[continue to employ]~~ *fail to suspend or terminate* certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of section 10 of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of section 10 by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Construction site" means any location at which construction work is being commenced or is in progress.*

Sec. 3.5. *1. "Construction worker" means a person who actually performs physical work at a construction site:*

(a) That results in the construction, alteration or destruction involved in the construction project, including, without limitation, painting and decorating; or

(b) Who supervises any person engaged in work described in paragraph (a).

2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

Sec. 4. *"OSHA-10 course" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

Sec. 5. *"OSHA-30 course" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

Sec. 6. *"Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.*

Sec. 6.5. *The provisions of sections 2 to 12, inclusive, of this act do not apply to:*

1. The Department of Transportation; or

2. An employee of the Department of Transportation while performing his duties as an employee of the Department.

Sec. 7. *The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.*

Sec. 8. *1. The Division shall, by regulation, approve OSHA-10 courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.*

2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.

3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.

Sec. 8.5. *1. Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.*

2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.

3. As used in this section:

(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.

(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

Sec. 9. (Deleted by amendment.)

Sec. 10. *1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must:*

(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-10 alternative course which is offered by his employer.

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must:

(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-30 alternative course which is offered by his employer.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

4. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health

regulatory requirements specific to the industry in which the employer participates.

Sec. 11. *1. If a construction worker other than a supervisory employee fails to:*

(a) Present his employer with a current and valid completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer,

➥ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. If a supervisory employee on a construction site fails to:

(a) Present his employer with a current and valid completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer,

➥ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

3. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 12. *1. If the Division finds that an employer has failed to suspend or terminate an employee as required by section 11 of this act, it shall:*

(a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $500.

(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $1,000.

(c) Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.

2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.

3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.

Sec. 13. Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~[~~:

~~(a) Obtain]~~ *obtain* a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act . ~~[~~; or

~~(b) Complete an OSHA-10 alternative course which is offered by his employer.]~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~[~~:

~~(a) Obtain]~~ *obtain* a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act . ~~[~~; or

~~(b) Complete an OSHA-30 alternative course which is offered by his employer.]~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

Sec. 14. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~[~~:

~~(a) Present]~~ *present* his employer with a current and valid completion card for an OSHA-10 course ~~[~~; or

~~(b) Complete an OSHA-10 alternative course offered by his employer,~~

~~→]~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. If a supervisory employee on a construction site fails to ~~[:~~

~~(a) Present]~~ *present* his employer with a current and valid completion card for an OSHA-30 course ~~[; or~~

~~(b) Complete an OSHA-30 alternative course offered by his employer,~~

~~→]~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

~~[3. As used in this section:~~

~~(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]~~

Sec. 15. 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

Sec. 16. 1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.

2. Sections 13 and 14 of this act become effective on January 1, 2011.

Senator Carlton moved the adoption of the amendment.

Conflict of interest declared by Senator Hardy.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No. 959 to Assembly Bill No. 148 provides an employer the option to suspend, rather than terminate, an employee if they do not comply with the training program.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 229.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 960.

"SUMMARY—Enacts provisions governing fire-safe cigarettes. (BDR 42-568)"

"AN ACT relating to cigarettes; setting forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in this State; requiring a manufacturer of cigarettes to submit a written certification to the State Fire Marshal concerning the cigarettes that the manufacturer intends to sell in this State; imposing a fee for each cigarette listed in a certification; requiring packages of cigarettes to be marked to indicate compliance of the cigarettes with the testing requirements and performance standard; imposing civil penalties for various violations; creating the Cigarette Fire Safety Standard and Firefighter Protection Fund in the State Treasury; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill, which is modeled on requirements first adopted in New York in 2004, sets forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in Nevada. Section 10 of this bill prohibits the sale of any cigarettes in Nevada which do not meet the testing requirements or performance standard for cigarettes set forth in that section and which have not been certified in accordance with section 11 of this bill or properly marked in accordance with section 12 of this bill. Section 10 also sets forth the testing requirements for cigarettes and the performance standard they must meet, using the ASTM International Standard ASTM E2187-04, while allowing for alternate testing methods and performance standards approved by the State Fire Marshal, and sets forth other requirements manufacturers must meet, such as keeping reports of testing.

Section 11 of this bill requires a manufacturer of cigarettes to submit to the State Fire Marshal a written certification concerning each cigarette the manufacturer intends to sell in Nevada, certifying that the cigarette meets the testing requirements and performance standard set forth in section 10 of this bill, and to pay a fee of $250 to the State Fire Marshal for each cigarette listed in a certification. Section 11.5 of this bill requires the Executive Director of the Department of Taxation to establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers. Section 12 of this bill requires that cigarettes which have been certified be marked with the letters "FSC," signifying "Fire Standard Compliant."

Section 13 of this bill provides for the imposition of a civil penalty against a manufacturer, wholesale dealer, retail dealer, agent or other person who violates any provision of this bill. Section 14 of this bill authorizes the State Fire Marshal to adopt regulations to carry out the provisions of this bill. Section 15 of this bill authorizes the Department of Taxation to inspect any packages of cigarettes to determine if they have been properly marked as required by section 12 of this bill. Section 16 of this bill authorizes the Attorney General, the Executive Director of the Department and the State Fire Marshal, and their authorized representatives, and any law enforcement officer to examine the books, papers, invoices and other records of persons in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in Nevada. Section 17 of this bill creates the Cigarette Fire Safety Standard and Firefighter Protection Fund as a special revenue fund in the State Treasury.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Agent" means a person authorized by the Department of Taxation to purchase and affix Nevada cigarette revenue stamps to packages of cigarettes.*

Sec. 4. *"Cigarette" means any roll of tobacco:*

1. Wrapped in paper or any other substance not containing tobacco; or

2. Wrapped in any substance containing tobacco which, because of its appearance, its packaging and labeling or the type of tobacco used in the filler, is likely to be offered to or purchased by a person as a cigarette described in subsection 1.

Sec. 5. *"Manufacturer" means:*

1. A person who manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced in any location and who

intends the cigarettes to be sold in this State, including, without limitation, cigarettes intended to be sold in the United States through an importer; or

2. The successor in interest of any person described in subsection 1.

Sec. 6. *"Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or other tobacco products.*

Sec. 7. *"Sale" means any transfer of title or possession, conditional or otherwise, in any manner or by any means or agreement. The term includes, without limitation, cash and credit sales, the giving of cigarettes as samples, prizes or gifts and the exchanging of cigarettes for consideration other than money.*

Sec. 8. *"Sell" means to make a sale or to offer or agree to make a sale.*

Sec. 9. *"Wholesale dealer" means:*

1. Any person other than a manufacturer who sells cigarettes or other tobacco products to retail dealers or other persons for purposes of resale; and

2. Any person who owns, operates or maintains one or more vending machines which dispense cigarettes or other tobacco products and which are located on premises owned or occupied by another person.

Sec. 10. *1. Except as otherwise provided in this section, a person shall not sell or offer to sell any cigarettes in this State unless:*

(a) The cigarettes have been tested in accordance with this section and meet the performance standard required by this section;

(b) The manufacturer has submitted to the State Fire Marshal, pursuant to section 11 of this act, a written certification in which the cigarettes are listed; and

(c) The packages that contain the cigarettes have been marked pursuant to section 12 of this act.

2. Except as otherwise provided in this section, all cigarettes that are sold or offered for sale in this State must comply with the following method of testing and performance standard:

(a) The cigarettes must be tested in accordance with the ASTM International Standard ASTM E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) The testing must be conducted on 10 layers of filter paper.

(c) The testing must be conducted by a laboratory which has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization or which meets any other comparable accreditation standard required by the State Fire Marshal.

(d) The laboratory conducting the testing must have a program for quality control that includes a procedure for determining the repeatability of the test results. The repeatability value must not exceed 0.19.

(e) Not more than 25 percent of the cigarettes tested in a test trial may exhibit full-length burns in the test trial. Compliance with the performance standard required by this paragraph must be determined based on a complete test trial consisting of 40 replicate tests for each cigarette tested.

3. This section does not require additional testing if the cigarettes have been tested for any other purpose in a manner that is consistent with this section.

4. Any testing performed or caused to be performed by the State Fire Marshal to determine the compliance of a cigarette with the performance standard required by this section must be conducted in accordance with this section.

5. Any cigarette listed in a certification submitted to the State Fire Marshal pursuant to section 11 of this act which uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard required by this section must have not less than two nominally identical bands on the paper surrounding the tobacco column, at least one of which must be located not less than 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands, one of which is located not less than ~~[131]~~ 15 millimeters from the lighting end of the cigarette and one of which is located not less than 10 millimeters from:

(a) The filter end of the tobacco column if the cigarette is filtered; or

(b) The labeled end of the tobacco column if the cigarette is nonfiltered.

6. If the State Fire Marshal:

(a) Determines that a cigarette cannot be tested in accordance with the requirements of subsection 2, the manufacturer of the cigarette shall propose an alternative method of testing and performance standard to the State Fire Marshal for approval and, if the State Fire Marshal approves the alternative method of testing and determines that the alternative performance standard proposed by the manufacturer is substantially equivalent to the performance standard set forth in paragraph (e) of subsection 2, the alternative method of testing and performance standard may be used to certify the cigarette pursuant to section 11 of this act; or

(b) Determines that:

(1) Another state has enacted requirements which are substantially similar to those set forth in this section for the fire safety of cigarettes and which include a method of testing and a performance standard that are substantially similar to those set forth in subsection 2; and

(2) The officials responsible for carrying out those requirements in the other state have approved the alternative method of testing and performance standard for a particular cigarette that the manufacturer has proposed as meeting the fire safety standards of the law of that state under a provision similar to this subsection,

➥ *the State Fire Marshal shall authorize the manufacturer to use the alternative method of testing and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal has a reasonable basis for denying the authorization.*

7. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes sold or offered for sale in this State for a period

of 3 years after the completion of the testing and shall make copies of the reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer that fails to make such copies available to the State Fire Marshal or Attorney General within 60 days after receiving a written request therefor is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer fails to make the copies available.

8. The State Fire Marshal may, by regulation, adopt by reference a subsequent ASTM International Standard Test Method for Measuring the Ignition Strength of Cigarettes if he determines that the subsequent method of testing does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the ASTM International Standard ASTM E2187-04 and the performance standard set forth in paragraph (e) of subsection 2. If the State Fire Marshal adopts the subsequent method of testing, it may be used as an alternative method for the certification of cigarettes.

9. This section does not prohibit:

(a) A wholesale dealer or retail dealer from selling his existing inventory of cigarettes on or after the effective date of this section if the wholesale dealer or retail dealer can establish that Nevada cigarette revenue stamps were affixed to the packages of cigarettes before the effective date of this section and the cigarettes were purchased by the wholesale dealer or retail dealer before the effective date of this section in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of the immediately preceding year.

(b) The sale of cigarettes solely for the purpose of consumer testing. As used in this paragraph, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, to evaluate consumer acceptance of the cigarettes, using only the number of cigarettes that is reasonably necessary for that assessment.

10. As used in this section, unless the context otherwise requires:

(a) "Program for quality control" means a program pursuant to which laboratory procedures are established to ensure that:

(1) The test results are not affected by operator bias, systematic and nonsystematic methodological errors or equipment-related problems; and

(2) The repeatability of the test results remains within the required repeatability value set forth in paragraph (d) of subsection 2 for all test trials used to certify cigarettes.

(b) "Repeatability value" means the range of values within which the repeat results of cigarette test trials conducted by a single laboratory will fall 95 percent of the time.

Sec. 11. *1. Each manufacturer shall submit to the State Fire Marshal a written certification of the cigarettes that the manufacturer intends to sell in*

this State attesting that each cigarette listed in the certification has been tested in accordance with and meets the applicable performance standard set forth in section 10 of this act.

2. The description of each cigarette listed in the certification must include, without limitation:

(a) The brand or trade name on the package;

(b) The style, such as light or ultra light;

(c) The length in millimeters;

(d) The circumference in millimeters;

(e) The flavor, such as menthol or chocolate, if applicable;

(f) Whether the cigarette is filtered or nonfiltered;

(g) The package description, such as soft pack or box;

(h) The marking pursuant to section 12 of this act;

(i) The name, address and telephone number of the laboratory that conducted the testing of the cigarette; and

(j) The date that the testing occurred.

3. The State Fire Marshal shall make the certifications that are submitted to him pursuant to this section available to the Attorney General for purposes consistent with sections 2 to 19, inclusive, of this act and to the Executive Director of the Department of Taxation for the purpose of ensuring compliance with this section and section 11.5 of this act.

4. Each cigarette certified under this section must be recertified every 3 years.

5. A manufacturer shall pay to the State Fire Marshal a fee of $1,000 for each brand family of cigarettes listed in the certification. The fee paid applies to all cigarettes within the brand family certified and must include any new cigarettes certified within the brand family during the 3-year certification period. All fees collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act. As used in this subsection, "brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, without limitation, "menthol," "lights," "kings" and "100s," and includes any brand name, whether or not occurring alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

6. If a manufacturer has certified a cigarette pursuant to this section and subsequently makes any change to the cigarette that is likely to alter its compliance with the performance standard required by section 10 of this act, the cigarette must not be sold or offered for sale in this State unless the manufacturer retests the cigarette pursuant to section 10 of this act and maintains the reports of the retesting in accordance with that section. Any

altered cigarette that does not meet the applicable performance standard set forth in section 10 of this act must not be sold or offered for sale in this State.

Sec. 11.5. *The Executive Director of the Department of Taxation shall establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers pursuant to section 11 of this act. The procedure may include, without limitation, listing the brands and styles of cigarettes which have been certified on an Internet website maintained by the Department.*

Sec. 12. *1. Packages that contain cigarettes which have been certified by a manufacturer in accordance with section 11 of this act must be marked to indicate compliance with section 10 of this act. The marking must be set forth in not less than 8-point type and consist of the letters "FSC," signifying "Fire Standard Compliant," and be permanently printed, stamped, engraved or embossed on the package at or near the UPC label.*

2. A manufacturer shall use only one marking and shall apply the marking uniformly for all packages, including, without limitation, packs, cartons, cases and brands marketed by that manufacturer.

3. A manufacturer that certifies a cigarette in accordance with section 11 of this act shall provide a copy of the certification to each wholesale dealer and agent to whom the manufacturer sells cigarettes. A wholesale dealer, retail dealer or agent shall allow the State Fire Marshal, the Executive Director of the Department of Taxation and the Attorney General, and their respective employees, to inspect the markings of cigarette packaging marked in accordance with this section.

Sec. 13. *1. Any manufacturer, wholesale dealer, agent or other person that knowingly sells cigarettes in this State, other than through retail sale, in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the person must not exceed $100,000 during any 30-day period.*

2. A retail dealer that knowingly sells cigarettes in this State in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the retail dealer must not exceed $25,000 during any 30-day period.

3. In addition to any other penalty prescribed by law, any manufacturer of cigarettes that knowingly makes a false certification pursuant to section 11 of this act is subject to a civil penalty of not less than $75,000 or more than $250,000 for each false certification.

4. A person who violates any other provision of sections 2 to 19, inclusive, of this act is subject to a civil penalty of not more than $1,000 for the first offense and not more than $5,000 for each subsequent offense.

5. A law enforcement officer, authorized representative of the Department of Taxation or authorized representative of the State Fire Marshal who discovers any cigarettes for sale in this State for which no certification has been submitted pursuant to section 11 of this act or which are not marked pursuant to section 12 of this act may seize the cigarettes.

Cigarettes seized pursuant to this section must be destroyed after the true holder of the trademark rights in the cigarette brand is allowed to inspect the cigarettes.

6. Each violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto constitutes a separate civil violation for which the State Fire Marshal or the Attorney General may obtain relief. In addition to any other remedy provided by law, the Attorney General may file an action in a court of competent jurisdiction concerning a violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto, including, without limitation, petitioning for:

(a) Preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or other person to enjoin the person from selling or affixing Nevada cigarette revenue stamps to any package of cigarettes that contains cigarettes which do not comply with the requirements of sections 2 to 19, inclusive, of this act. Upon obtaining judgment for injunctive relief, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to whom the cigarette has been sold.

(b) The recovery of any civil penalty authorized by the provisions of sections 2 to 19, inclusive, of this act.

(c) The recovery of any costs or damages incurred by this State because of a violation of sections 2 to 19, inclusive, of this act, including, without limitation, enforcement costs relating to a specific violation and attorney's fees.

7. All money collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act.

Sec. 14. *The State Fire Marshal may adopt such regulations as he determines necessary to carry out the provisions of sections 2 to 19, inclusive, of this act.*

Sec. 15. *The Department of Taxation, in the regular course of conducting inspections of wholesale dealers, retail dealers and agents pursuant to NRS 370.001 to 370.530, inclusive, may inspect any packages of cigarettes to determine if they have been marked in accordance with section 12 of this act. If the packages of cigarettes are not marked as required, the Executive Director of the Department of Taxation shall notify the State Fire Marshal and may seize the packages of cigarettes pursuant to subsection 5 of section 13 of this act.*

Sec. 16. *The Attorney General, the Executive Director of the Department of Taxation and the State Fire Marshal, and their authorized representatives, and any law enforcement officer may examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State, including, without limitation, any stock of*

cigarettes on the premises. Each person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State shall cooperate in any such examination.

Sec. 17. *1. The Cigarette Fire Safety Standard and Firefighter Protection Fund is hereby created in the State Treasury as a special revenue fund. All money received for the use of the Fund pursuant to sections 2 to 19, inclusive, of this act or from any other source must be deposited in the Fund.*

2. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

3. The State Fire Marshal shall administer the Fund and may expend any money in the Fund to support fire safety and fire prevention programs.

Sec. 18. *On or before January 30 of each odd-numbered year, the State Fire Marshal shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of the provisions of sections 2 to 19, inclusive, of this act and any recommendations for legislation to improve the effectiveness of sections 2 to 19, inclusive, of this act.*

Sec. 19. *1. The provisions of sections 2 to 19, inclusive, of this act must, to the extent practicable, be interpreted and construed to effectuate the general purpose of those provisions to make uniform the laws of those states that have enacted similar legislation.*

2. The provisions of sections 2 to 19, inclusive, of this act must not be construed to prohibit any person from manufacturing or selling cigarettes that do not meet the requirements of section 10 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale in this State.

Sec. 20. 1. Any ordinance or regulation adopted by a local government which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto is void and must not be given effect to the extent of the conflict.

2. Notwithstanding any specific statute to the contrary, no local government may adopt any ordinance or regulation which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto.

3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city or town.

Sec. 21. 1. This section and sections 1, 14 and 20 of this act become effective upon passage and approval.

2. Sections 2 to 13, inclusive, and 15 to 19, inclusive, of this act become effective 1 year after passage and approval.

3. This section and sections 2 to 16, inclusive, 18, 19 and 20 of this act expire by limitation on the date upon which a federal law establishing standards for fire-safe cigarettes becomes effective.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No. 960 to Assembly Bill No. 229 provides a definition of "brand family" for purposes of payment of the certification fee to the State Fire Marshall.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 430.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 958.

"SUMMARY—Prohibits certain activity regarding unsafe cribs and other children's products. (BDR 52-464)"

"AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission or the manufacturer of the product. Section 7 also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. Section 7 further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. Section 18 of this bill makes it a deceptive trade practice for a person to knowingly and willfully violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092)

Sections 9-17 of this bill establish the Infant Crib Safety Act. Section 14 prohibits persons from remanufacturing, retrofitting, selling, contracting to

sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. Section 14 also describes the types of cribs that are presumed unsafe. Section 15 establishes civil penalties for persons who violate any provision relating to unsafe cribs. Section 16 exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. Section 16 further releases from liability any commercial user who complies with the notice requirement. Section 17 authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Children's product" means a consumer product that is designed or intended:*

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ *For the purposes of this subsection, "children's product" does not include soap or any medication, drug, food or other product that is intended to be ingested [.] or that is regulated by the Food and Drug Administration of the United States Department of Health and Human Services.*

Sec. 4. (Deleted by amendment.)

Sec. 5. *"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.*

Sec. 6. *"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:*

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ *For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.*

Sec. 7. *1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:*

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency; or

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning.

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. (Deleted by amendment.)

Sec. 9. *Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.*

Sec. 10. *As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.*

Sec. 11. *"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:*

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. *"Crib" means:*

1. Any full-size baby crib as described in 16 C.F.R. § 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. § 1509.2(b).

Sec. 13. *"Infant" means a child who is under 3 years of age.*

Sec. 14. *1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.*

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. *1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.*

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. *1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:*

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. *In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.*

Sec. 18. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments ~~[,]~~ or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property ~~[,]~~ or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly and willfully violates section 7 or 14 of this act.

Sec. 19. (Deleted by amendment.)

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No. 958 to Assembly Bill No. 430 specifies that the term "children's products," for purposes of the bill, does not pertain to soap or any product regulated by the Food and Drug Administration of the United States Department of Health and Human Services.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 461.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 945.

"SUMMARY—Makes various changes relating to older persons. (BDR 15-126)"

"AN ACT relating to older persons; revising the provisions pertaining to the reporting of abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; making various other changes relating to older persons; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) Section 1 of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

~~[Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) Section 4 of this bill expands the list of prospective witnesses who may have their deposition taken to include persons who are 70 years of age or older. (NRS 174.175)]~~

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation

or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats

an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded *within 30 days after the completion of the report* to the *:*

(a) Aging Services Division ~~[within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the]~~ *;*

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes . ~~[within 90 days after completion of the report.]~~

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[NRS 174.175 is hereby amended to read as follows:~~

~~174.175 1. If it appears that a prospective witness *is an older person or* may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.~~

~~2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.~~

~~3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.~~

~~*4. As used in this section, "older person" means a person who is 70 years of age or older.]* *(Deleted by amendment.)*~~

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of

crimes against older persons committed in this State . ~~[that]~~ *The record* must be prepared in a manner approved by the Director of the Department ~~[.]~~ *and may include, without limitation, the following information:*

(a) All incidents that are reported to any entity.

(b) All cases that are currently under investigation and the type of such cases.

(c) All cases that are referred for prosecution and the type of such cases.

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 *1.* The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~[1.]~~ *(a)* At the request of the district attorney of the county in which the violation occurred;

~~[2.]~~ *(b)* If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~[3.]~~ *(c)* Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; ~~[and]~~

(c) *Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and*

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you, Mr. President. The amendment deletes section 4 of the bill concerning depositions by those over 70 years of age, only in criminal matters. This provision is covered with greater detail in Senate Bill No. 45 which includes a finding of good cause and includes applicability to vulnerable persons. The conference committee on Senate Bill No. 45 has already met and agreed on the conference report.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 523.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 957.

"SUMMARY—Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. (BDR 54-773)"

"AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. Sections 1.5-18, 21, 23, 24, 50.1-50.7 and 55-85 of this bill establish provisions for the licensing and registration with

the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

Section 55 of this bill also increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker ~~[,]~~ *or* mortgage agent ~~[or residential mortgage loan originator]~~ for certain violations from $10,000 to $25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents.(NRS 645B.455)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ *1.5* to 8, inclusive, of this act.

Sec. 1.5. *"Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.*

Sec. 2. *"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. *"Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).*

Sec. 6. *"Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:*

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 7. (Deleted by amendment.)

Sec. 8. *A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan*

originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, *and sections 1.5 to 6, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~[a]~~ *:*

(a) A natural person who:

~~[(a)]~~ *(1)* Is an employee ~~[or independent contractor]~~ of a mortgage broker *or mortgage banker* who is required to be licensed pursuant to this chapter ~~[,]~~ *or chapter 645E of NRS;* and

~~[(b)]~~ *(2)* Is authorized by the mortgage broker *or mortgage banker* to engage in, on behalf of the mortgage broker ~~[,]~~ *or mortgage banker,* any activity that would require the person, if he were not an employee ~~[or independent contractor]~~ of the mortgage broker ~~[,]~~ *or mortgage banker,* to be licensed as a mortgage broker *or mortgage banker* pursuant to this chapter ~~[.]~~ *or chapter 645E of NRS; or*

(b) A mortgage ~~[banker,]~~ broker, qualified employee or mortgage banker who is required by section 8 or ~~[59]~~ 59.1 of this act to be licensed as a mortgage agent.

2. The term *includes a residential mortgage loan originator*.

3. The term does not include a person who:

(a) ~~[Is]~~ *Except as otherwise provided in paragraph (b) of subsection 1, is* licensed as a mortgage broker ~~[,]~~ *or mortgage banker;*

(b) ~~[Is a]~~ *Is an owner,* general partner, officer or director of a mortgage broker ~~[,]~~ or *mortgage banker;*

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~[.]~~ *; or*

(d) Collects payments and performs related services , including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other

activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter ~~[.; or]~~ *and any regulations adopted thereto; and*

(b) Successfully pass a written examination as ~~[determined]~~ *provided for* by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[.~~

~~(a) May]~~ *may* hire a testing organization to create, administer and score a written examination . ~~[; and~~

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ *shall* adopt regulations to carry out the provisions of this section, including, without limitation ~~[, regulations]~~ *:*

(a) Regulations relating to the content of a written examination ~~[,]~~ *and* the scoring of a written examination ~~[or any possible waivers of a written examination .]~~ *; and*

(b) Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)
Sec. 30. (Deleted by amendment.)
Sec. 31. (Deleted by amendment.)
Sec. 32. (Deleted by amendment.)
Sec. 33. (Deleted by amendment.)
Sec. 34. (Deleted by amendment.)
Sec. 35. (Deleted by amendment.)
Sec. 36. (Deleted by amendment.)
Sec. 37. (Deleted by amendment.)
Sec. 38. (Deleted by amendment.)
Sec. 39. (Deleted by amendment.)
Sec. 40. (Deleted by amendment.)
Sec. 41. (Deleted by amendment.)
Sec. 42. (Deleted by amendment.)
Sec. 43. (Deleted by amendment.)
Sec. 44. (Deleted by amendment.)
Sec. 45. (Deleted by amendment.)
Sec. 46. (Deleted by amendment.)
Sec. 47. (Deleted by amendment.)
Sec. 48. (Deleted by amendment.)
Sec. 49. (Deleted by amendment.)
Sec. 50. (Deleted by amendment.)

Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[.]~~ , *except that an exemption may not be issued for the making of a residential mortgage loan.*

2. The Commissioner may grant the exemption if he finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the

Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ *demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.*

(2) Has not been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or~~

~~any crime involving fraud, misrepresentation or moral turpitude.]~~ *in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.*

(3) Has not made a false statement of material fact on his application.

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ *never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.*

(5) ~~[Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.~~

~~(6)]~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~[:~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 20 years.]~~ *has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.*

Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the

license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter *are in addition to any fee required to be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee *or date* set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than $185.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~[Include]~~ *If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include* a verified statement from the mortgage broker *or mortgage banker* with whom the applicant will be associated that expresses the intent of that mortgage broker *or mortgage* ~~*[agent]*~~ *banker* to associate the applicant with the mortgage broker *or mortgage* ~~*[agent]*~~ *banker* and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage agents or~~

~~any crime involving fraud, misrepresentation or moral turpitude;~~] *in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;*

(2) Has ~~[not]~~ *never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or* had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ *demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.*

4. Money received by the Commissioner pursuant to this section *is in addition to any fee required to be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

5. Money received by the Commissioner pursuant to this section *is in addition to any fee that must be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12 month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~[.]~~ *and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.* Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; ~~[and]~~

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~[.]~~ *; and*

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[$10,000,]~~ *$25,000,* if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than ~~[$10,000,]~~ *$25,000*, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish

any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;]~~ *in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.*

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ *in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;* or

(2) Had a ~~[financial services]~~ license or registration *as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration* suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker ~~*[or residential mortgage loan originator]*~~ for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker ~~*[or residential mortgage loan originator]*~~ is conducting business by examining the monthly reports of activity submitted by the mortgage broker ~~*[or residential mortgage loan originator]*~~ or by conducting an examination of the mortgage broker . ~~*[or residential mortgage loan originator.]*~~

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than ~~[$10,000,]~~ *$25,000* may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ *in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.*

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.

Sec. 59.1. *1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.*

2. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. *1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:*

(a) The establishment of written or oral policies and procedures for his mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents or held in trust by the mortgage banker or his mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 59.5. *If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:*

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. *1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:*

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. (Deleted by amendment.)

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to 77.5, inclusive, of this act.

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 70. (Deleted by amendment.)

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. *"Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.*

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 75.3. *The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.*

Sec. 75.7. *The Commissioner shall adopt regulations:*

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. *1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.*

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. *1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.*

2. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against,

➥ *residential mortgage loan originators included in the Registry for access by the public.*

Sec. 77.5. *For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.*

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, *and section 73 of this act* have the meanings ascribed to them in those sections.

Sec. 79. (Deleted by amendment.)

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~[and]~~

(c) *Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and*

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2011 ~~[.]~~ *, or such other date as the Commissioner of Mortgage Lending may prescribe by regulation if necessary to comply with federal law.*

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2010.

Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.

Sec. 86. This act becomes effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

➥ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No. 957 to Assembly Bill No. 523 makes certain technical corrections regarding the names of mortgage-lending professionals. The amendment also specifies that persons performing tasks related to modification of an existing home loan are not mortgage agents. The amendment also allows the Commissioner of Mortgage Lending to prescribe by regulation the date on which an acting mortgage broker or banker must become licensed as a mortgage agent in order to ensure the effective date is in compliance with federal law. We need to be able to "true ourselves up" with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and we want to make certain we give the Commissioner the option to comply without hard deadlines.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 434.
Bill read third time.
Roll call on Senate Bill No. 434:
YEAS—21.
NAYS—None.

Senate Bill No. 434 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 92.
Bill read third time.
Roll call on Assembly Bill No. 92:
YEAS—21.
NAYS—None.

Assembly Bill No. 92 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 207.
Bill read third time.
Roll call on Assembly Bill No. 207:
YEAS—21.
NAYS—None.

Assembly Bill No. 207 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 355.
Bill read third time.
Senator Care moved that Assembly Bill No. 355 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Assembly Bill No. 555.
Bill read third time.
Roll call on Assembly Bill No. 555:
YEAS—21.
NAYS—None.

Assembly Bill No. 555 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 4 p.m.
Motion carried.

Senate in recess at 1:49 p.m.

SENATE IN SESSION

At 7:13 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Health and Education, to which was referred Assembly Bill No. 505, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 19, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

JOYCE WOODHOUSE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 28, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 78, 146, 318, 382, 400, 401, 422, 423, 424, 425, 430; Assembly Bills Nos. 18, 540.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 214, 385, 409, 561.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 7, Amendment No. 950; Senate Bill No. 152, Amendments Nos. 778, 953; Senate Bill No. 293, Amendments Nos. 712, 949; Senate Bill No. 403, Amendment No. 955, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 609 to Assembly Bill No. 207; Senate Amendment No. 967 to Assembly Bill No. 522.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 55, Assembly Amendment No. 588, and requests a conference, and appointed Assemblymen Anderson, Ohrenschall and McArthur as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 269, Assembly Amendments Nos. 783, 905, and requests a conference, and appointed Assemblymen Smith, Anderson and Hardy as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 332, Assembly Amendment No. 745, and requests a conference, and appointed Assemblymen Spiegel, Dondero Loop and Goicoechea as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, McClain and Gansert as a Conference Committee concerning Assembly Bill No. 140.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen McClain, Conklin and Hardy as a Conference Committee concerning Assembly Bill No. 202.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parnell, Dondero Loop and Hambrick as a Conference Committee concerning Assembly Bill No. 309.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Segerblom, Pierce and Carpenter as a Conference Committee concerning Assembly Bill No. 320.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, McClain and Goedhart as a Conference Committee concerning Assembly Bill No. 454.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 19.

Resolution read.

Senator Woodhouse moved the adoption of the resolution.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Senate Concurrent Resolution No. 19 is one of the Senate's three interim studies and will provide for us a review, oversight and strategic positioning in relation to energy, its uses and resources for the future.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 18.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 214.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 385.

Senator Care moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 409.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 540.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 561.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 505.

Bill read second time.

The following amendment was proposed by the Committee on Health and Education:

Amendment No. 962.

"SUMMARY—Revises provisions governing pupils enrolled in high school. (BDR 34-784)"

"AN ACT relating to education; requiring the Department of Education to work in consultation with the Nevada System of Higher Education to establish a plan to ensure that high school pupils are ready for postsecondary education and the workplace; revising provisions governing the academic plans for ninth grade pupils; requiring instruction on financial responsibility in high school; authorizing the issuance of an adjusted adult diploma for certain persons; requiring ~~[peer]~~ *the school districts to adopt programs of teen* mentoring *;* ~~[for ninth grade pupils;]~~ requiring school districts to adopt a policy for the remediation of deficient credits to the extent money is available; requiring school districts to adopt a policy for pupils to report unlawful activities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to work in consultation with the Nevada System of Higher Education to establish clearly defined goals and benchmarks for pupils enrolled in high schools to be adequately prepared for the educational requirements of postsecondary education and for success in the workplace.

Existing law requires the board of trustees of a school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) Section 5 of this bill requires the policy to ensure that each ninth grade pupil and his parent or legal guardian are adequately notified of certain courses and programs available to the pupil which will assist in the advancement of the education of the pupil as well as the requirements for graduation, for admission to the Nevada System of Higher Education and for receipt of a Governor Guinn Millennium Scholarship.

Section 6 of this bill requires the board of trustees of each school district and the governing body of each charter school that operates as a high school to ensure that instruction on financial responsibility is provided to pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school.

Existing law provides that a pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive an adjusted diploma if he satisfies the requirements set forth in his individualized education program. (NRS 389.805) Section 7 of this bill requires the State Board of Education to create an adjusted adult diploma . ~~[and provides that a pupil who was identified as a pupil with a disability and~~

~~who did not graduate before the age of 22 years may receive an adjusted adult diploma under certain circumstances.]~~

Section 9 of this bill requires the board of trustees of each school district to adopt a policy for a program of ~~[peer]~~ *teen* mentoring, which may include a component of adult mentoring, *for the public high schools in the district* designed to *: (1) increase pupil participation in school and community activities; or (2)* assist ~~[the]~~ ninth grade pupils in the transition from middle school or junior high school to high school ~~[.]~~ *, or both. Section 9 further provides that the principal of each high school shall, to the extent that money is available for that purpose, carry out the program of teen mentoring at that school. Section 17 of this bill provides that section 9 becomes effective on July 1, 2011*.

Section 10 of this bill requires the board of trustees of each school district, to the extent money is available for this purpose, to adopt a policy which ensures that a pupil who is deficient in the number of credits required for promotion to the next grade or graduation from high school has sufficient opportunities to remediate his deficient credits.

Section 11 of this bill requires the board of trustees of each school district to adopt a policy that allows pupils enrolled in a school within the school district to report, anonymously if the pupils choose, any unlawful activities that are being conducted on school property, at an activity sponsored by a public school or on a school bus, commonly referred to as a "secret witness program."

Section 16 of this bill repeals NRS 392.090, 392.100 and 392.110, relating to the exemption of certain children from compulsory school attendance.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall work in consultation with the Nevada System of Higher Education to establish a plan which sets forth clearly defined goals and benchmarks for pupils enrolled in the public high schools to ensure that those pupils are adequately prepared for the educational requirements of postsecondary education and for success in the workplace, including, without limitation, methods to ensure that the high school standards, graduation requirements and assessments are aligned with college and workforce readiness expectations.

2. The Superintendent of Public Instruction shall:

(a) On or before February 1 of each odd-numbered year, submit a report on the progress of the plan to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature; and

(b) On or before February 1 of each even-numbered year, submit a report on the progress of the plan to the Legislative Committee on Education.

Sec. 2. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district,

including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) *An adult diploma.*

(3) An adjusted diploma.

~~[(3)]~~ *(4) An adjusted adult diploma.*

(5) A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield

statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

(1) Violence to other pupils or to school personnel;

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

(4) Possession or use of a controlled substance; and

(5) Possession or use of alcohol;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; ~~[and]~~

(4) *Adjusted adult diploma;*

(5) Certificate of attendance; *and*

(6) Certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be

provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) *An adult diploma.*

(3) An adjusted diploma.

~~[(3)]~~ *(4) An adjusted adult diploma.*

(5) A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website

maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. *The policy must ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are adequately notified and informed of the following information:*

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist in the advancement of the education of the pupil;

(b) The requirements for graduation from high school with a diploma and the types of diplomas available;

(c) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship; and

(d) To the extent available, programs offered by charter schools within the school district.

3. The policy must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) ~~[Work in]~~ *Be notified of opportunities to work in* consultation with a school counselor to develop *and review* an academic plan for the pupil; *and*

(b) ~~[Sign the academic plan; and~~

~~(c)~~ Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

~~[3.]~~ *4.* If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

~~[4.]~~ *5.* An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if he otherwise satisfies the requirements for a diploma.

Sec. 6. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school that operates as a high school shall ensure that instruction on financial responsibility is provided to pupils in each public high school within the school district or in the charter school, as applicable. The instruction must include:

(a) The skills necessary to develop financial responsibility, including, without limitation:

(1) Making reasonable financial decisions by analyzing the alternatives and consequences to those financial decisions;

(2) Locating and evaluating financial information from various sources;

(3) Developing communication strategies to discuss financial issues;

(4) Controlling personal information; and

(5) Reviewing and summarizing federal and state consumer protection laws.

(b) The skills necessary to manage finances, including, without limitation:

(1) Developing a plan for spending and saving;

(2) Developing a system for keeping and using financial records; and

(3) Developing a personal financial plan.

(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:

(1) Identifying the costs and benefits of various types of credit;

(2) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;

(3) Describing the rights of a borrower regarding his credit report;

(4) Identifying methods to avoid and resolve debt problems; and

(5) Reviewing and summarizing federal and state consumer credit protection laws.

(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:

(1) Understanding how saving and investing contribute to financial well-being;

(2) Understanding the methods of investing and alternatives to investing;

(3) Understanding how to buy and sell investments; and

(4) Understanding how the regulation of financial institutions protects investors.

2. The instruction required by subsection 1 may be included within a course that pupils enrolled in high school are otherwise required to complete.

Sec. 7. NRS 389.805 is hereby amended to read as follows:

389.805 1. A pupil must receive a standard high school diploma if he:

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than three times before beginning grade 12 and the pupil:

(1) Passes the subject areas of mathematics and reading on the proficiency examination;

(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection ~~[3;]~~ *4;* and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. *The State Board shall prescribe an adjusted adult diploma* ~~*[. A person who did not satisfy]*~~ *and the requirements for receipt of* ~~*[a standard high school diploma or an adjusted diploma may receive an adjusted adult diploma if he:*~~

~~*(a) Was identified as a pupil with a disability and received instruction pursuant to an individualized education program;*~~

~~*(b) Did not graduate before attaining the age of 22 years;*~~

~~*(c) Except as otherwise provided in paragraph (d), meets all of the current requirements for graduation; and*~~

~~*(d) Has taken the high school proficiency examination administered pursuant to NRS 389.015 at least one time but failed to pass the examination in its entirety.]*~~ *an adjusted adult diploma by an adult who did not satisfy the requirements of subsection 2.*

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

➥ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

~~*[5. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).]*~~

Sec. 8. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 9, 10 and 11 of this act.

Sec. 9. *1. The board of trustees of each school district shall adopt a policy for the public high schools within the school district to provide a program of ~~[peer]~~ teen mentoring, which may include a component of adult mentoring, designed to ~~[increase]~~ :*

(a) Increase pupil participation in school activities, community activities and all levels of government; or

(b) Increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school ~~[.]~~ ,

➥ *or both.*

2. Any such policy must include, without limitation:

(a) Guidelines for establishing:

(1) Eligibility requirements for pupils who participate in the program as mentors or mentees, including, without limitation, any minimum grade level for pupils who serve as mentors and any minimum grade point average that must be maintained by pupils who serve as mentors. The guidelines may not require a pupil who participates in the program to maintain a grade point average that is higher than the grade point average required for a pupil to participate in sports at the high school the pupil attends.

(2) Training requirements for pupils who serve as mentors.

(3) Incentives for pupils who serve as mentors.

(b) A requirement that each public high school which carries out a program for teen mentoring must establish a committee to select each pupil mentor who participates in the program. The policy must provide that the committee may select a pupil who does not meet the general eligibility requirements for mentors if the members of the committee determine that the pupil is otherwise qualified to serve as a mentor.

(c) Any other provisions that the board of trustees deems appropriate.

3. The principal of each high school shall ~~[.]~~ , to the extent that money is available for this purpose:

(a) Carry out a program of teen mentoring ~~[for the ninth grade pupils enrolled in the high school]~~ in accordance with the policy adopted by the board of trustees pursuant to subsection 1; and

(b) ~~[Submit]~~ Adopt other policies for the program of teen mentoring that are consistent with this section and the policy adopted by the board of trustees pursuant to subsection 1.

4. If a principal of a public high school carries out a program of teen mentoring pursuant to this section, the principal shall, on a date prescribed by the board of trustees, submit an annual report to the board of trustees ~~[on :]~~ and the Director of the Legislative Counsel Bureau for transmission to the Legislative Committee on Education or the Legislature, as applicable, that sets forth a summary of:

~~[(1)]~~ (a) The specific activities of the program of teen mentoring; and

~~[(2)]~~ (b) The effectiveness of the program of teen mentoring in increasing pupil participation in school activities, community activities and all levels of government or in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school ~~[.~~

~~3.]~~ , as applicable to the type of program in effect at the school.

5. The board of trustees of each school district and each public high school may apply for and accept gifts, grants and donations from any source for the support of the board of trustees or a public high school in carrying out a program of teen mentoring pursuant to the provisions of this section. Any money received pursuant to this subsection may be used only for purposes of carrying out a program of teen mentoring pursuant to the provisions of this section.

6. This section does not ~~[prohibit the principal of a]~~ preclude a board of trustees of a school district or a public high school from continuing any other similar program of teen mentoring that ~~[the high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.]~~ exists on the July 1, 2011.

Sec. 10. *To the extent money is available for this purpose, the board of trustees of each school district shall adopt a policy of credit remediation which ensures that pupils who are deficient in the number of credits required for promotion to the next grade or for graduation from high school are provided sufficient opportunities, including, without limitation, opportunities during the school day, to complete appropriate remediation of deficient credits.*

Sec. 11. *1. The board of trustees of each school district shall adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy must include, without limitation:*

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist in the implementation of the policy adopted pursuant to subsection 1.

3. Each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods to make a report. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.

4. The board of trustees of each school district shall post the policy on the Internet website maintained by the school district.

Sec. 12. NRS 392.019 is hereby amended to read as follows:

392.019 1. Except as otherwise provided in this subsection, if a child is exempt from compulsory attendance pursuant to *this section or* NRS 392.070 ~~[, 392.100 or 392.110,]~~ and the child is employed to work in the entertainment industry pursuant to a written contract for a period of more than 91 school days, or its equivalent if the child resides in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, including, without limitation, employment with a motion picture company or employment with a production company hired by a casino or resort hotel, the entity that employs the child shall, upon the request of the parent or legal guardian of the child, pay the costs for the child to receive at least 3 hours of tutoring per day for at least 5 days per week. In lieu of tutoring, the parent or legal guardian of such a child may agree with the entity that employs the child that the entity will pay the costs for the child to receive other educational or instructional services which are equivalent to tutoring. The provisions of this subsection apply during the period of a child's employment with an entity, regardless of whether the child has obtained the appropriate exemption from compulsory attendance at the time his contract with the entity is under negotiation.

2. *The board of trustees of a school district may excuse a child who is employed pursuant to subsection 1 from full-time attendance.* If such a child is exempt from ~~[compulsory]~~ attendance pursuant to ~~[NRS 392.100 or 392.110,]~~ *this subsection,* the tutoring or other educational or instructional services received by the child pursuant to subsection 1 must be approved by the board of trustees of the school district in which the child resides.

Sec. 13. NRS 392.170 is hereby amended to read as follows:

392.170 Upon the written complaint of any person, the board of trustees of a school district or the governing body of a charter school shall:

1. Make a full and impartial investigation of all charges against parents, guardians or other persons having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 for violation of any of the provisions of NRS 392.040 to ~~[392.110,]~~ *392.080,* inclusive, or 392.130 to 392.160, inclusive.

2. Make and file a written report of the investigation and the findings thereof in the records of the board.

Sec. 14. NRS 392.180 is hereby amended to read as follows:

392.180 If it appears upon investigation that any parent, guardian or other person having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 has violated any of the provisions of NRS 392.040 to ~~[392.110,]~~ *392.080*, inclusive, or 392.130 to 392.160, inclusive, the clerk of the board of trustees or the governing body of a charter school in which the child is enrolled, except as otherwise provided in NRS 392.190, shall make and file in the proper court a criminal complaint against the parent, guardian or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

Sec. 15. NRS 392.215 is hereby amended to read as follows:

392.215 Any parent, guardian or other person who, with intent to deceive under NRS 392.040 to ~~[392.110,]~~ *392.080*, inclusive, or 392.130 to 392.165, inclusive:

1. Makes a false statement concerning the age or attendance at school;

2. Presents a false birth certificate or record of attendance at school; or

3. Refuses to furnish a suitable identifying document, record of attendance at school or proof of change of name, upon request by a local law enforcement agency conducting an investigation in response to notification pursuant to subsection 4 of NRS 392.165,

➥ of a child under 18 years of age who is under his control or charge, is guilty of a misdemeanor.

Sec. 15.5. Section 2 of chapter 180, Statutes of Nevada 2009, is hereby amended to read as follows:

Sec. 2. This act becomes effective upon passage and approval ~~[.]~~ *and expires by limitation on June 30, 2011.*

Sec. 16. NRS 392.090, 392.100 and 392.110 are hereby repealed.

Sec. 17. *1.* This *section and sections 1 to 8, inclusive, and 10 to 16, inclusive, of this* act ~~[becomes]~~ *become* effective on July 1, 2009.

2. Section 9 of this act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

392.090 Juvenile court may permit child who has completed eighth grade to leave school. After review of the case, the juvenile court may issue a permit authorizing any child who has completed the eighth grade to leave school.

392.100 Attendance excused if child 14 years of age or older must support himself or his parent. Attendance required by the provisions of NRS 392.040 shall be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child, 14 years of age or over, must work for his own or his parent's support.

392.110 Attendance excused for child between 14 and 18 years of age who has completed eighth grade to enter employment or apprenticeship; written permit required.

1. Any child between the ages of 14 and 18 years who has completed the work of the first eight grades may be excused from full-time school attendance and may be permitted to enter proper employment or apprenticeship, by the written authority of the board of trustees excusing the child from such attendance. The board's written authority must state the reason or reasons for such excuse.

2. In all such cases, no employer or other person shall employ or contract for the services or time of such child until the child presents a written permit therefor from the attendance officer or board of trustees. The permit must be kept on file by the employer and, upon the termination of employment, must be returned by the employer to the board of trustees or other authority issuing it.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 962 revises the following provisions to Assembly Bill No. 505. The amendment clarifies that the State Board shall prescribe an adjusted adult diploma and the requirements for receipt of the diploma. It revises the term "peer mentoring" to "teen mentoring" and clarifies that any such program shall be designed to increase pupil participation in school and community activities and/or assist ninth grade pupils in the transition from middle school or junior high school to senior high school.

The amendment clarifies that the principal of each high school shall, to the extent that money is available for teen mentoring, carry out the program at that school, and it revises the effective date for the teen mentoring program to July 1, 2011.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senator Care moved that Assembly Bill No. 505 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

Roll call on Senate Bill No. 3:

YEAS—21.

NAYS—None.

Senate Bill No. 3 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 143.

Bill read third time.

Remarks by Senators Cegavske and Horsford.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CEGAVSKE:
I have spoken to the Majority Leader and have asked about the fiscal note on this about paying the Legislators.

SENATOR HORSFORD:
I have not gotten the answer on this and am waiting for an answer from the Fiscal Division.

Senator Horsford moved that Senate Bill No. 143 be moved to the bottom of the General File.
Motion carried.

Assembly Bill No. 64.
Bill read third time.
Roll call on Assembly Bill No. 64:
YEAS—21.
NAYS—None.

Assembly Bill No. 64 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 148.
Bill read third time.
Roll call on Assembly Bill No. 148:
YEAS—20.
NAYS—None.
NOT VOTING—Hardy.

Assembly Bill No. 148 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 229.
Bill read third time.
Roll call on Assembly Bill No. 229:
YEAS—21.
NAYS—None.

Assembly Bill No. 229 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 430.
Bill read third time.
Roll call on Assembly Bill No. 430:
YEAS—21.
NAYS—None.

Assembly Bill No. 430 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 461.
Bill read third time.
Roll call on Assembly Bill No. 461:
YEAS—21.
NAYS—None.

Assembly Bill No. 461 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 523.
Bill read third time.
Roll call on Assembly Bill No. 523:
YEAS—21.
NAYS—None.

Assembly Bill No. 523 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 143.
Bill read third time.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:25 p.m.

SENATE IN SESSION

At 7:27 p.m.
President Krolicki presiding.
Quorum present.

Remarks by Senator Cegavske.
Senator Cegavske requested that her remarks be entered in the Journal.
The Fiscal Staff has indicated that this bill cannot be enacted unless they go before the Legislative Commission. If the Legislative Commission authorizes them, then, it is up to them whether or not the Legislators who serve are paid and whether or not they have the money for it. My questions were satisfied.

Roll call on Senate Bill No. 143:
YEAS—20.
NAYS—Washington.

Senate Bill No. 143 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 82.

The following Assembly amendment was read:

Amendment No. 733.

"SUMMARY—Makes various changes relating to ~~[technological crime and the seizure of certain funds associated with]~~ prepaid or stored value cards. (BDR 14-266)"

"AN ACT relating to crimes; ~~[revising the provisions relating to the disclosure of certain electronic information by certain providers of certain technological services during investigations involving technological crimes; revising the provisions relating to the forfeiture of property and proceeds attributable to technological crimes;]~~ establishing procedures for ~~[the freezing and seizing of]~~ *identifying* certain funds associated with prepaid or stored value cards; ~~[making various other changes relating to technological crimes;]~~ *authorizing certain contracts to carry out the provisions relating to the identification of such funds;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 2 and 14 of this bill repeal the existing provisions of Nevada law pertaining to the disclosure of certain information by a provider of Internet service and replace those existing provisions with new provisions authorizing the disclosure of certain information under certain circumstances by a provider of electronic communication service or a remote computing service which conform with, and which are closely patterned after, the requirements of applicable federal law. (NRS 193.340, 18 U.S.C. § 2703)~~

~~Sections 3-10 of this]~~ *This* bill ~~[establish]~~ *establishes* procedures to allow law enforcement to ~~[freeze and seize]~~ *identify* funds associated with prepaid or stored value cards.

~~[~~ ~~Section 6 of this]~~ *This* bill allows a peace officer to ~~[freeze for 10 business days the]~~ *determine the name, personal information and amount of* funds associated with a prepaid or stored value card in certain circumstances *where there is probable cause to believe that the prepaid or stored value card is an instrumentality of a crime.* ~~[and requires the peace officer to provide notice of the freeze to the financial institution identified as the issuer of the card.~~

~~Section 7 of this bill allows a peace officer to seize the funds associated with a prepaid or stored value card if the financial institution identified as the issuer of the card is not located in this country and the peace officer has probable cause to believe a freeze will not be honored by the financial institution.~~

~~Section 8 of this bill provides procedures for the issuance of warrants to seize funds associated with prepaid or stored value cards.~~

~~Section 9 of this bill provides a procedure for a person aggrieved by the seizure of the funds associated with a prepaid or stored value card pursuant to~~

~~a warrant to file a motion for the return of the funds and the suppression of the evidence obtained pursuant to the warrant.~~

~~Section 10 of]~~ *Finally,* this bill allows the Attorney General or a state or local law enforcement agency to enter into a contract to carry out the provisions of this bill concerning the ~~[freezing and seizing]~~ *identification* of funds.

~~[Section 11 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to any felony crime to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1162)~~

~~Section 12 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to technological crimes to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1215)~~

~~Section 13 of this bill makes a technical correction to include a necessary reference to the provisions relating to forfeiture of property and proceeds attributable to technological crimes. (NRS 179.1211-179.1235)]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 179 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 1 to 10, inclusive, of this act.]~~ *a new section to read as follows:*

1. If a peace officer:

(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:

(1) Has not been identified; or

(2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;

(b) Has lawfully obtained possession of a prepaid or stored value card; and

(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime,

➥ *the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and amount of funds associated with the prepaid or stored value card.*

2. The Attorney General, his designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of this section.

3. Before entering into a contract pursuant to subsection 2, the Attorney General, his designee or a state or local law enforcement agency shall consider the following factors:

(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards.

(b) The overall costs of establishing and maintaining such a database or databases.

(c) Any other factors that the Attorney General, his designee or the state or local law enforcement agency believe to be relevant.

4. Any contract entered into pursuant to this section:

(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years; and

(b) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken at the direction of a law enforcement agency in this State and within the scope of the contract .

5. As used in this section:

(a) "Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.

(b) "Proceeds" has the meaning ascribed to it in NRS 179.1161.

Sec. 2. ~~*[1. In investigating criminal activity that involves or may involve a technological crime, a governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system:*~~

~~*(a) For 180 days or less, only by a search warrant issued pursuant to NRS 179.015 to 179.115, inclusive.*~~

~~*(b) For more than 180 days, by any means available pursuant to subsection 2.*~~

~~*2. A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this subsection applies:*~~

~~*(a) Without prior notice to the subscriber or customer from the governmental entity by obtaining a search warrant pursuant to NRS 179.015 to 179.115, inclusive; or*~~

~~*(b) With prior notice to the subscriber or customer from the governmental entity:*~~

~~*(1) By serving a subpoena; or*~~

~~*(2) By obtaining a court order for such disclosure pursuant to subsection 7, except that delayed notice may be given pursuant to subsection 11.*~~

~~*3. Subsection 2 applies with respect to any wire or electronic communication that is held or maintained on that remote computing service:*~~

~~*(a) On behalf of, and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of such remote computing service; and*~~

~~*(b) Solely for the purpose of providing storage or computer processing services to such subscriber or customer, if such remote computing service is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.*~~

~~*4. A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service, not including the contents of communications, only when the governmental entity:*~~

~~*(a) Obtains a search warrant pursuant to NRS 179.015 to 179.115, inclusive;*~~

~~*(b) Obtains a court order for such disclosure pursuant to subsection 7;*~~

~~*(c) Has the consent of the subscriber or customer to such disclosure; or*~~

~~*(d) Seeks information pursuant to subsection 5.*~~

~~*5. A provider of electronic communication service or remote computing service shall disclose to a governmental entity the:*~~

~~*(a) Name;*~~

~~*(b) Address;*~~

~~*(c) Local and long distance telephone connection records, or records of session times and durations;*~~

~~*(d) Length of service, including start date, and types of service utilized;*~~

~~*(e) Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and*~~

~~*(f) Means and source of payment for such service, including any credit card or bank account number,*~~

~~*→ of a subscriber to or customer of such service when the governmental entity obtains a subpoena or uses any means available pursuant to subsection 4.*~~

~~*6. A governmental entity receiving records or information pursuant to subsection 4 or 5 is not required to provide notice to a subscriber or customer.*~~

~~*7. A court order for disclosure pursuant to subsection 2, 4 or 5 may be issued by any court of competent jurisdiction only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication,*~~

~~*or the records or other information sought, are relevant and material to an ongoing criminal investigation that involves or may involve a technological crime. A court issuing an order pursuant to this subsection, on a motion made promptly by the provider of wire or electronic communication service or remote computing service, may quash or modify such order if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on the provider of wire or electronic communication service or remote computing service.*~~

~~*8. If a person who has been issued a subpoena pursuant to this section:*~~

~~*(a) Charges a fee for providing the information, the fee must not exceed the actual costs for providing the information.*~~

~~*(b) Refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.*~~

~~*9. A provider of wire or electronic communication service or remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records and other evidence must be retained for a period of 90 days, which may be extended for an additional 90-day period upon request by the governmental entity.*~~

~~*10. Notwithstanding the provisions of NRS 179.015 to 179.115, inclusive, the presence of a peace officer is not required for service or execution of a search warrant requiring disclosure by a provider of electronic communication service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.*~~

~~*11. The notice to a subscriber or customer required by this section may be delayed for a period not to exceed 90 days under any of the following circumstances:*~~

~~*(a) If the applicant for a search warrant or court order requests a delay of notification and the court finds that delay is necessary to protect the safety of any person or to prevent flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation.*~~

~~*(b) If the investigator or prosecuting attorney proceeding by subpoena executes a written certification that there is reason to believe that notice to the subscriber or party may result in danger to the safety of any person, flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation. A true copy of the certification must be retained with the subpoena.*~~

~~*→ If further delay of notification is necessary, an extension not to exceed 90 days may be obtained by application to the court.*~~

~~*12. No cause of action may lie in any court against any provider of wire or electronic communication service or remote computing service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, search warrant, subpoena or other process pursuant to this section.*~~

~~*13. As used in this section:*~~

~~*(a) The terms "contents," "electronic communication," "electronic communication service," "electronic communications system," "electronic storage," "oral communication" and "wire communication" have the meanings ascribed to them in 18 U.S.C. § 2510.*~~

~~*(b) "Governmental entity" includes the following law enforcement officials, and any authorized representative thereof:*~~

~~*(1) The Attorney General;*~~

~~*(2) A district attorney;*~~

~~*(3) A sheriff in this State;*~~

~~*(4) Any organized police department of any municipality in this State;*~~

~~*(5) Any school police unit of any school district in this State; and*~~

~~*(6) Any department of this State engaged in the enforcement of any criminal law of this State.*~~

~~*(c) "Remote computing service" has the meaning ascribed to it in 18 U.S.C. § 2711.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~*[As used in sections 3 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.]*~~ *(Deleted by amendment.)*

Sec. 4. ~~*["Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~*["Proceeds" has the meaning ascribed to it in NRS 179.1161.]*~~ *(Deleted by amendment.)*

Sec. 6. ~~*[1. If a peace officer:*~~

~~*(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:*~~

~~*(1) Has not been identified; or*~~

~~*(2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;*~~

~~*(b) Has lawfully obtained possession of a prepaid or stored value card; and*~~

~~*(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime,*~~

~~*the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and the amount of funds associated with the prepaid or stored value card.*~~ *[and freeze the funds associated with the prepaid or stored value card, or any portion thereof, for a period of not more than 10 business days.*

~~*2. Upon freezing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds frozen, the duration of the freeze and sufficient contact information to allow the holder of the funds to request the lifting of the freeze. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.]*~~ *(Deleted by amendment.)*

Sec. 7. ~~*[1. If a peace officer has probable cause to believe the financial institution identified as the issuer of the prepaid or stored value card is located outside the United States and will not honor a freeze imposed pursuant to section 6 of this act, the peace officer may use an electronic device, a necessary communications network or any other reasonable means to seize the funds associated with the prepaid or stored value card, or any portion thereof.*~~

~~*2. Upon seizing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to the financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds seized, sufficient information to allow the financial institution to contact the peace officer or his law enforcement agency and a statement that the seizure is subject to the provisions of NRS 179.1156 to 179.121, inclusive, or 179.1211 to 179.1235, inclusive. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.*~~

~~*3. A person aggrieved by the seizure of any funds pursuant to this section may move the court having jurisdiction where the peace officer who seized the funds is headquartered for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the ground that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for use in the commission of a crime.*~~

~~*4. If the court hearing a motion filed pursuant to subsection 3 finds that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for*~~

~~*use in the commission of a crime, the court shall restore the funds, unless the funds are otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure are not admissible evidence at any trial or hearing.]*~~ *(Deleted by amendment.)*

Sec. 8. ~~*[1. A magistrate of the State of Nevada may issue a warrant to seize the funds associated with a prepaid or stored value card, or any portion thereof, if the magistrate finds that there is probable cause to believe that the funds to be seized:*~~

~~*(a) Were stolen or embezzled in violation of the laws of the State of Nevada, or of any other state or the United States;*~~

~~*(b) Were designed or intended for use, or are being or had been used, as the means of committing a criminal offense; or*~~

~~*(c) Constitute evidence which tends to show that a criminal offense has been committed or that a particular person committed a criminal offense.*~~

~~*2. Except as otherwise provided in subsection 3, the warrant described in this section may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant.*~~

~~*3. In lieu of the affidavit required by subsection 2, the magistrate may take an oral statement given under oath, which must be recorded in the presence of the magistrate or in his immediate vicinity by a certified court reporter or by electronic means, transcribed, certified by the reporter if he recorded it and certified by the magistrate. The statement must be filed with the clerk of the court.*~~

~~*4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.*~~

~~*5. A warrant issued pursuant to this section must be directed to a peace officer who is able to execute the warrant through the electronic seizure of the funds. The warrant must command the peace officer to seize the funds associated with the prepaid or stored value card, or any portion thereof, and:*~~

~~*(a) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof; or*~~

~~*(b) Incorporate by reference the affidavit or oral statement upon which it is based.*~~

~~*6. A warrant issued pursuant to this section must designate the magistrate to whom it is to be returned.*~~

~~*7. A warrant issued pursuant to this section may be executed and returned only within 10 days of its date.*~~

~~*8. The peace officer executing a warrant issued pursuant to this section shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the alleged crime associated with the*~~

~~*seizure, the amount of funds seized, the manner in which the financial institution may obtain a copy of the warrant and the phone number and address of the clerk of the court having jurisdiction where the warrant was issued. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.*~~

~~*9. The return must be made promptly and be accompanied by any physical evidence of the seizure.*~~

~~*10. The magistrate who has issued a warrant pursuant to this section shall attach to the warrant a copy of the return, any physical evidence of the seizure and any other papers in connection therewith and shall file them with the clerk of the court having jurisdiction where the warrant was issued.*~~

~~*11. Any funds seized to this section must be maintained in an escrow account, or other similar account, in a national bank that is chartered and regulated by the Office of the Comptroller of the Currency of the United States Department of the Treasury. The funds must be maintained pursuant to procedures that ensure appropriate accounting and auditing.]*~~ *(Deleted by amendment.)*

Sec. 9. ~~*[1. A person aggrieved by the seizure of funds pursuant to section 8 of this act may move the court having jurisdiction where the warrant was issued for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the grounds that:*~~

~~*(a) The funds were illegally seized without a warrant;*~~

~~*(b) The warrant is insufficient on its face;*~~

~~*(c) There was not probable cause for believing the existence of the grounds on which the warrant was issued; or*~~

~~*(d) The warrant was illegally executed.*~~

~~*2. The judge shall receive evidence on any issue of fact necessary to the decision of the motion.*~~

~~*2. If a motion filed pursuant to this section is granted, the funds must be restored, unless otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure is not admissible evidence at any hearing or trial.*~~

~~*3. Any motion to suppress evidence may also be made in the court where the trial is to take place. The motion must be made before trial or hearing, unless opportunity to file the motion did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.]*~~ *(Deleted by amendment.)*

Sec. 10. ~~*[1. The Attorney General, his designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of sections 3 to 10, inclusive, of this act.*~~

~~*2. Before entering into a contract pursuant to subsection 1, the Attorney General, his designee or a state or local law enforcement agency shall consider the following factors:*~~

~~*(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards.*~~

~~*(b) The overall costs of establishing and maintaining such a database or databases.*~~

~~*(c) Any other factors that the Attorney General, his designee or the state or local law enforcement agency believe to be relevant.*~~

~~*3. Any contract entered into pursuant to this section:*~~

~~*(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years;*~~

~~*(b) Must ensure that the freeze or seizure of funds pursuant to sections 3 to 10, inclusive, of this act does not deprive the financial institution subject to the freeze or seizure of interchange income; and*~~

~~*(c) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken:*~~

~~*(1) At the direction of a law enforcement agency in this State and within the scope of the contract and sections 3 to 10, inclusive, of this act; and*~~

~~*(2) Pursuant to any warrant issued pursuant to section 8 of this act.]*~~ *(Deleted by amendment.)*

Sec. 11. ~~[NRS 179.1162 is hereby amended to read as follows:~~

~~179.1162 "Property" includes any:~~

~~1. Real property or interest in real property.~~

~~2. Fixture or improvement to real property.~~

~~3. Personal property, whether tangible or intangible, or interest in personal property.~~

~~4. Conveyance, including any aircraft, vehicle or vessel.~~

~~5. Money, security or negotiable instrument.~~

~~6. Proceeds.~~

~~*7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value card" has the meaning ascribed to it in section 4 of this act.]*~~ *(Deleted by amendment.)*

Sec. 12. ~~[NRS 179.1215 is hereby amended to read as follows:~~

~~179.1215 "Property" includes, without limitation, any:~~

~~1. Real property or interest in real property.~~

~~2. Fixture or improvement to real property.~~

~~3. Personal property, whether tangible or intangible, or interest in personal property.~~

~~4. Conveyance, including, without limitation, any aircraft, vehicle or vessel.~~

~~5. Money, security or negotiable instrument.~~

~~6. Proceeds.~~

~~*7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value card" has the meaning ascribed to it in section 4 of this act.]*~~ *(Deleted by amendment.)*

Sec. 13. ~~[NRS 200.760 is hereby amended to read as follows:~~

~~200.760 All assets derived from or relating to any violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230 are subject to forfeiture. A proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.119, inclusive , *or 179.1211 to 179.1235, inclusive.*]~~ *(Deleted by amendment.)*

Sec. 14. ~~*[*NRS 193.340 is hereby repealed.*]*~~ *(Deleted by amendment.)*

Sec. 15. This act becomes effective on July 1, 2009.

~~TEXT OF REPEALED SECTION~~

~~193.340 Required disclosure of certain information by provider of Internet service; penalty; issuance and enforcement of administrative subpoena; fee for information.~~

~~1. A provider of Internet service who violates the provisions of 18 U.S.C. § 2703 is guilty of a misdemeanor and shall be punished by a fine of not less than $50 or more than $500 for each violation.~~

~~2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this State, the head of any organized police department of any municipality in this State, the head of any department of this State engaged in the enforcement of any criminal law of this State and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service, issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703.~~

~~3. If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.~~

~~4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.~~

~~5. As used in this section, "provider of Internet service" has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.]~~

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 82.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

The Assembly deleted a number of sections of the bill and put everything into section 1 with the blessings of the Attorney General's Office, which has reviewed the final product. Based on its recommendations, we agreed to concur.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 92.

The following Assembly amendment was read:

Amendment No. 735.

"SUMMARY—Makes various changes relating to the regulation of notaries public. (BDR 19-414)"

"AN ACT relating to notaries public; providing for electronic notarization; authorizing the Secretary of State to appoint electronic notaries public; revising provisions for the appointment of resident and nonresident notaries public; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Secretary of State is authorized to appoint notaries public in this State. (NRS 240.010) Sections 3-26 of this bill enact the Electronic Notary Public Authorization Act, which authorizes the Secretary of State to appoint electronic notaries public who will be authorized to notarize electronic documents.

Sections 2 and 5-10 of this bill set forth various definitions relating to electronic notarization. Section 12 of this bill requires that a person seeking appointment as an electronic notary public already be a notary public in Nevada and successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath as a public officer. Section 14 of this bill provides that the initial term of appointment for an electronic notary public is 2 years and any subsequent term of appointment is 4 years. Section 16 of this bill states that an electronic notary public may perform the same notarial acts as a notary public except for certifying copies and noting protests of a negotiable instrument, and section 17 of this bill sets forth the fees he may charge. Section 18 of this bill prohibits the electronic notarization of a will, codicil, testamentary trust or any document related to transactions governed by certain sections of the Uniform Commercial Code, as prohibited by the Uniform Electronic Transactions Act, codified as chapter 719 of NRS. (NRS 719.200) Section 19 of this bill sets forth the specific requirements that distinguish the

notarization of an electronic document from a nonelectronic notarization, including the use of an electronic signature and an electronic seal. Sections 21 and 22 of this bill provide that an electronic notary public must safeguard his electronic signature and any software or device used in producing that signature. Section 23 of this bill makes it a gross misdemeanor to: (1) wrongfully make or distribute software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed; or (2) wrongfully obtain, conceal, damage or destroy the software or hardware used by an electronic notary public. Section 25 of this bill authorizes the Secretary of State to promulgate regulations to carry out the provisions of the Electronic Notary Public Authorization Act. Section 26 of this bill provides that all the laws which apply to regular notaries public apply to electronic notaries public unless a provision of the Electronic Notary Public Authorization Act conflicts, in which case the latter controls.

Existing law prohibits a person who has been convicted of a crime of moral turpitude or a person who does not possess his civil rights from being appointed as a notary public. (NRS 240.010, 240.015) Section 29 of this bill authorizes the Secretary of State to appoint as a notary public a person who was convicted of ~~[a crime of moral turpitude]~~ *certain crimes* if: (1) more than 10 years have passed since the end of his sentence, parole or probation; (2) he has made restitution, if applicable; ~~[and]~~ (3) he has had his civil rights restored ~~[.]~~ *; and (4) the crime for which he was convicted was not one of an enumerated list of crimes involving dishonesty or identity theft.*

Existing law allows a resident of an adjoining state to be appointed as a notary public in Nevada if he maintains or works for a business in Nevada. (NRS 240.015) Sections 30-32 of this bill amend the requirements for a nonresident notary public to further require a copy of a state business license and any other business license required by a local government where the business is located as proof of employment or self-employment in Nevada when applying for an appointment or the renewal of an appointment as a nonresident notary public.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. *"Notarial record" means:*

1. The journal that a notary public is required to keep pursuant to NRS 240.120;

2. The journal that an electronic notary public is required to keep pursuant to section 20 of this act; and

3. A document or other evidence retained by a notary public or an electronic notary public to record the performance of a notarial act or an electronic notarial act.

Sec. 3. *Sections 3 to 26, inclusive, of this act may be cited as the Electronic Notary Public Authorization Act.*

Sec. 4. *As used in sections 3 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

Sec. 6. *"Electronic document" means a document that is created, generated, sent, communicated, received or stored by electronic means.*

Sec. 7. *"Electronic notarial act" means an act that an electronic notary public of this State is authorized to perform. The term includes:*

1. Taking an acknowledgment;

2. Administering an oath or affirmation;

3. Executing a jurat; and

4. Performing such other duties as may be prescribed by a specific statute.

Sec. 8. *"Electronic notary public" means a person appointed by the Secretary of State pursuant to sections 3 to 26, inclusive, of this act to perform electronic notarial acts.*

Sec. 9. *"Electronic seal" means information within a notarized electronic document that includes the name, jurisdiction and expiration date of the appointment of an electronic notary public and generally includes the information required to be set forth in a mechanical stamp pursuant to NRS 240.040.*

Sec. 10. *"Electronic signature" means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document.*

Sec. 11. *1. The Secretary of State may appoint electronic notaries public in this State.*

2. The Secretary of State shall not appoint as an electronic notary public a person who submits an application containing a substantial and material misstatement or omission of fact.

3. An electronic notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as an electronic notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to section 12 of this act.

(b) Submit an application for appointment as an electronic notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

Sec. 12. *1. Each person applying for appointment as an electronic notary public must:*

(a) At the time of application, be a notarial officer in this State and have been a notarial officer in this State for not less than 4 years;

(b) Submit to the Secretary of State an electronic application pursuant to subsection 2;

(c) Pay to the Secretary of State an application fee of $50;

(d) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer;

(e) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has successfully completed a course of study provided pursuant to section 15 of this act; and

(f) Enter into a bond to the State of Nevada in the sum of $10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. The application for an appointment as an electronic notary public must be submitted as an electronic document and must contain, without limitation, the following information:

(a) The applicant's full legal name, and the name to be used for appointment, if different.

(b) The county in which the applicant resides.

(c) The electronic mail address of the applicant.

(d) A description of the technology or device, approved by the Secretary of State, that the applicant intends to use to create his electronic signature in performing electronic notarial acts.

(e) The electronic signature of the applicant.

(f) Any other information requested by the Secretary of State.

3. An applicant for appointment as an electronic notary public who resides in an adjoining state, in addition to the requirements set forth in subsections 1 and 2, must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada;

(b) A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where his business is located, if he is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of his employer issued pursuant to NRS 360.780, a copy of any business license of his employer that is required by the local government where the business is located and an affidavit from his employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

4. In completing an application, bond, oath or other document necessary to apply for appointment as an electronic notary public, an applicant must

not be required to disclose his residential address or telephone number on any such document which will become available to the public.

5. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as an electronic notary public to the applicant.

6. The term of an electronic notary public commences on the effective date of the bond required pursuant to paragraph (f) of subsection 1. An electronic notary public shall not perform an electronic notarial act after the effective date of the bond unless he has been issued a certificate of appointment pursuant to subsection 5.

7. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of $10 for each duplicate or amended certificate of appointment which is issued to an electronic notary public. If the electronic notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the electronic notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 13. *1. The bond required to be filed pursuant to section 12 of this act must be executed by the person applying to become an electronic notary public as principal and by a surety company qualified and authorized to do business in this State. The bond must be made payable to the State of Nevada and be conditioned to provide indemnification to a person determined to have suffered damage as a result of an act by the electronic notary public which violates a provision of NRS 240.001 to 240.169, inclusive, or sections 3 to 26, inclusive, of this act. The surety company shall pay a final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice of final judgment. The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.*

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the electronic notary public, except when a surety is released.

4. A surety on a bond filed pursuant to section 12 of this act may be released after the surety gives 30 days' written notice to the Secretary of State and the electronic notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of

the electronic notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer covered by a surety bond as required by this section and section 12 of this act or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment will be suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of an electronic notary public whose appointment has been suspended pursuant to subsection 5 if the electronic notary public, before his current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as an electronic notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk; and

(b) Pays to the Secretary of State a fee of $10.

Sec. 14. *1. The initial term of appointment as an electronic notary public is 2 years. Each term of appointment as an electronic notary public subsequent to the initial term is 4 years.*

2. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer appointed as a notary public in this State. If the appointment of an electronic notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment as an electronic notary public will be suspended by operation of law until he is appointed as a notary public in this State.

3. If, at any time during his appointment, an electronic notary public changes his electronic mail address, county of residence, name, electronic signature or the technology or device used to create his electronic signature, the electronic notary public shall, within 10 days after making the change, submit to the Secretary of State:

(a) An electronic document, signed with the electronic signature submitted by the electronic notary public pursuant to subsection 2 of section 12 of this act, that includes the change of information; and

(b) A fee of $10.

Sec. 15. *1. Except as otherwise provided in subsection 2, an applicant for appointment as an electronic notary public must successfully:*

(a) Complete a course of study that is in accordance with the requirements of subsection 5; and

(b) Pass an examination at the completion of the course.

2. The following persons must successfully complete a course of study as required pursuant to subsection 1:

(a) A person applying for his first appointment as an electronic notary public;

(b) A person renewing his appointment as an electronic notary public if his appointment as an electronic notary public has been expired for a period of more than 1 year; and

(c) A person renewing his appointment as an electronic notary public if, during the 4 years immediately preceding his application for renewal, the Secretary of State took action against the person pursuant to NRS 240.150 for failing to comply with any provision of this chapter or any regulations adopted pursuant thereto.

➥ *A person renewing his appointment as an electronic notary public need not successfully complete a course of study as required pursuant to subsection 1 if his appointment as an electronic notary public has been expired for a period of 1 year or less.*

3. A course of study required to be completed pursuant to subsection 1 must:

(a) Include at least 3 hours of instruction;

(b) Provide instruction in electronic notarization, including, without limitation, notarial law and ethics, technology and procedures;

(c) Include an examination of the course content;

(d) Comply with the regulations adopted pursuant to section 25 of this act; and

(e) Be approved by the Secretary of State.

4. The Secretary of State may, with respect to a course of study required to be completed pursuant to subsection 1:

(a) Provide such a course of study; and

(b) Charge a reasonable fee to each person who enrolls in such a course of study.

5. A course of study provided pursuant to this section must satisfy the criteria set forth in subsection 3 and comply with the requirements set forth in the regulations adopted pursuant to section 25 of this act.

6. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 4 in the Notary Public Training Fund created pursuant to NRS 240.018.

Sec. 16. *A person appointed as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act may, during normal business hours, perform the following electronic notarial acts for a person who requests the electronic notarial act and tenders the appropriate fee:*

1. Taking an acknowledgment;

2. Executing a jurat; and

3. Administering an oath or affirmation.

Sec. 17. *1. An electronic notary public may charge the following fees and no more:*

(a) For taking an acknowledgment, for each signature..... $10

(b) For executing a jurat, for each signature..... $10

(c) For administering an oath or affirmation without a signature..... $10

2. An electronic notary public shall not charge a fee to perform a service unless he is authorized to charge a fee for such a service pursuant to this section.

3. All fees prescribed in this section are payable in advance, if demanded.

4. An electronic notary public may charge an additional fee for traveling to perform an electronic notarial act if:

(a) The person requesting the electronic notarial act asks the electronic notary public to travel;

(b) The electronic notary public explains to the person requesting the electronic notarial act that the fee for travel is in addition to the fee authorized in subsection 1 and is not required by law;

(c) The person requesting the electronic notarial act agrees in advance upon the hourly rate that the electronic notary public will charge for the additional fee for travel; and

(d) The additional fee for travel does not exceed:

(1) If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 6 a.m. and 7 p.m., $10 per hour.

(2) If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 7 p.m. and 6 a.m., $25 per hour.

➥ *The electronic notary public may charge a minimum of 2 hours for such travel and shall charge on a pro rata basis after the first 2 hours.*

5. An electronic notary public is entitled to charge the amount of the additional fee for travel agreed to in advance by the person requesting the electronic notarial act pursuant to subsection 4 if:

(a) The person requesting the electronic notarial act cancels his request after the electronic notary public begins his travel to perform the requested electronic notarial act.

(b) The electronic notary public is unable to perform the requested electronic notarial act as a result of the actions of the person who requested the electronic notarial act or any other person who is necessary for the performance of the electronic notarial act.

6. For each additional fee for travel that an electronic notary public charges pursuant to subsection 4, the electronic notary public shall enter in the journal that he keeps pursuant to section 20 of this act:

(a) The amount of the fee; and

(b) The date and time that the electronic notary public began and ended such travel.

7. A person who employs an electronic notary public may prohibit the electronic notary public from charging a fee for an electronic notarial act that the electronic notary public performs within the scope of his employment. Such a person shall not require the electronic notary public whom he employs to surrender to him all or part of a fee charged by the electronic notary public for an electronic notarial act performed outside the scope of his employment.

Sec. 18. *1. An electronic notary public shall not willfully electronically notarize the signature or electronic signature of a person unless the person is in the presence of the electronic notary public at the time of notarization and:*

(a) Is known to the electronic notary public; or

(b) If unknown to the electronic notary public, provides a credible witness or documentary evidence of identification to the electronic notary public.

2. A person who:

(a) Violates the provisions of subsection 1; or

(b) Aids and abets an electronic notary public to commit a violation of subsection 1,

➥ *is guilty of a gross misdemeanor.*

3. An electronic notary public shall not electronically notarize any electronic document related to the following:

(a) A will, codicil or testamentary trust; and

(b) Any transaction governed by the Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive.

4. An appointment as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act does not authorize the electronic notary public to perform notarial acts in another state.

Sec. 19. *An electronic notarial act must be evidenced by the following, which must be attached to or logically associated with the electronic document that is the subject of the electronic notarial act and which must be immediately perceptible and reproducible:*

1. The electronic signature of the electronic notary public;

2. The electronic seal of the electronic notary public; and

3. The wording of a notarial certificate pursuant to NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169.

Sec. 20. *1. An electronic notary public shall keep a journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and 2 of NRS 240.120.*

2. The Secretary of State may suspend the appointment of an electronic notary public who fails to produce any journal entry within 10 days after receipt of a request from the Secretary of State.

3. Upon resignation, revocation or expiration of an appointment as an electronic notary public, all notarial records required pursuant to this chapter must be delivered to the Secretary of State.

Sec. 21. *1. The electronic signature and electronic seal of an electronic notary public must be used only for the purposes of performing electronic notarial acts.*

2. An electronic notary public shall safeguard his electronic signature, the electronic seal and all notarial records maintained by the electronic notary public as follows:

(a) When not in use, the electronic notary public shall keep the electronic signature, electronic seal and all notarial records secure, under the exclusive control of the electronic notary public and protected by a password where applicable.

(b) An electronic notary public shall not permit his electronic signature or electronic seal to be used by any other person.

(c) An electronic notary public shall not surrender or destroy his notarial records except as otherwise required by the order of a court or as allowed pursuant to this chapter or any regulations adopted pursuant thereto.

(d) Except as otherwise provided in subsection 3, an electronic notary public, within 10 days after discovering that his electronic signature or electronic seal has been stolen, lost, damaged or otherwise rendered incapable of affixing a legible image, shall:

(1) Inform the appropriate law enforcement agency in the case of theft or vandalism; and

(2) Notify the Secretary of State in writing, including, without limitation, a signature using the name on the certificate of appointment issued pursuant to subsection 5 of section 12 of this act.

3. An electronic notary public shall take reasonable steps to maintain the technology or device used to create his electronic signature, and to ensure that the technology or device has not been recalled, revoked, terminated or otherwise rendered ineffective or unsecure by the entity that created the technology or device. Upon learning that the technology or device used to create his electronic signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

(a) A new technology or device is acquired; and

(b) The electronic notary public sends an electronic notice to the Secretary of State that includes, without limitation, the information required pursuant to paragraphs (d) and (e) of subsection 2 of section 12 of this act relating to the new technology or device.

Sec. 22. *1. Except as otherwise provided in subsection 3, if an electronic notary public dies or resigns during his appointment, or if the appointment of the electronic notary public is revoked or expires, the electronic notary public, the executor of his estate or his authorized representative, as appropriate, shall:*

(a) Notify the Secretary of State of the resignation or death; and

(b) Erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature.

2. Upon receipt of the notice required by subsection 1, the Secretary of State shall cancel the appointment of the electronic notary public, effective on the date on which the notice was received.

3. A former electronic notary public whose previous appointment as an electronic notary public was not revoked and whose previous application for appointment as an electronic notary public was not denied is not required to erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature if he renews his appointment, using the same electronic signature, within 3 months after the expiration of his previous appointment as an electronic notary public.

Sec. 23. *1. A person who knowingly creates, manufactures or distributes software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed in accordance with sections 3 to 26, inclusive, of this act is guilty of a gross misdemeanor.*

2. A person who wrongfully obtains, conceals, damages or destroys the technology or device used to create the electronic signature of an electronic notary public is guilty of a gross misdemeanor.

Sec. 24. *1. Except as otherwise provided in subsection 2, the Secretary of State shall, upon request, issue an authentication to verify that the electronic signature of the electronic notary public on an electronic document is genuine and that the electronic notary public holds the office indicated on the electronic document. The authentication must be:*

(a) Signed by the Secretary of State; and

(b) In conformance with any relevant international treaties, agreements and conventions subscribed to by the Government of the United States, including, without limitation, the Hague Convention of October 5, 1961.

2. The Secretary of State shall not issue an authentication pursuant to subsection 1 if:

(a) The electronic document has not been electronically notarized in accordance with the provisions of this chapter and sections 3 to 26, inclusive, of this act; or

(b) The Secretary of State has reasonable cause to believe that the electronic document may be used to accomplish any fraudulent, criminal or unlawful purpose.

Sec. 25. *The Secretary of State may adopt regulations to carry out the provisions of sections 3 to 26, inclusive, of this act.*

Sec. 26. *An electronic notary public shall comply with those provisions of NRS 240.001 to 240.169, inclusive, which are not inconsistent with sections 3 to 26, inclusive, of this act. To the extent that the provisions of NRS 240.001 to 240.169, inclusive, conflict with the provisions of sections 3 to 26, inclusive, of this act, the provisions of sections 3 to 26, inclusive, of this act control.*

Sec. 27. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, *and sections 3 to 26, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 28. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in ~~[subsection 2,]~~ *subsections 2 and 3,* information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, *and sections 2 to 26, inclusive, of this act* are public information and are available for public examination.

2. *Information and documents filed with or obtained by the Secretary of State pursuant to or in accordance with subsection 6 of NRS 240.010 are not public information and are confidential.*

3. Except as otherwise provided in subsections ~~[3]~~ *4* and ~~[4]~~ *5* and in NRS 239.0115, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, *and sections 2 to 26, inclusive, of this act* are not public information and are confidential.

~~[3.]~~ *4.* The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, *and sections 2 to 26, inclusive, of this act* to the appropriate district attorney for the purpose of prosecuting a criminal action.

~~[4.]~~ *5.* The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, *and sections 2 to 26, inclusive, of this act* to an agency of this State or a political subdivision of this State.

Sec. 29. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who ~~*[Except]*~~ *, except as otherwise provided in subsection 6,* ~~*[who]*~~ has been convicted of ~~[a]~~ *:*

(1) A crime involving moral turpitude ~~[,]~~ *; or*

(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any other crime involving misappropriation of the identity or property of another person or entity,

➥ if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

6. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if he provides proof satisfactory to the Secretary of State that:

(a) More than 10 years have elapsed since the date of his release from confinement or the expiration of the period of his parole, probation or sentence, whichever is later;

(b) He has made complete restitution for his crime involving moral turpitude, if applicable; ~~*[and]*~~

(c) He possesses his civil rights ~~*[.]*~~ *; and*

(d) The crime for which he was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.

Sec. 30. NRS 240.015 is hereby amended to read as follows:

240.015 1. Except as otherwise provided in this section, a person appointed as a notary public must:

(a) During the period of his appointment, be a citizen of the United States or lawfully admitted for permanent residency in the United States as verified by the United States Citizenship and Immigration Services.

(b) Be a resident of this State.

(c) Be at least 18 years of age.

(d) Possess his civil rights.

2. If a person appointed as a notary public ceases to be lawfully admitted for permanent residency in the United States during his appointment, he shall, within 90 days after his lawful admission has expired or is otherwise terminated, submit to the Secretary of State evidence that he is lawfully readmitted for permanent residency as verified by the United States Citizenship and Immigration Services. If the person fails to submit such evidence within the prescribed time, his appointment expires by operation of law.

3. The Secretary of State may appoint a person who resides in an adjoining state as a notary public if the person:

(a) Maintains a place of business in the State of Nevada ~~[;]~~ *that is licensed pursuant to NRS 360.780 and any applicable business licensing requirements of the local government where the business is located;* or

(b) Is regularly employed at an office, business or facility located within the State of Nevada by an employer licensed to do business in this State.

➥ If such a person ceases to maintain a place of business in this State or regular employment at an office, business or facility located within this State, the Secretary of State may suspend his appointment. The Secretary of State may reinstate an appointment suspended pursuant to this subsection if the notary public submits to the Secretary of State, before his term of appointment as a notary public expires, ~~[an affidavit which contains]~~ the information required pursuant to subsection 2 of NRS 240.030.

Sec. 31. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time he submits his application, pay to the Secretary of State $35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of $10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant ~~[shall]~~ *must* submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada; ~~[and]~~

(b) *A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where the business is located, if he is self-employed; and*

(c) Unless the applicant is self-employed, *a copy of the state business license of his employer, a copy of any business license of his employer that is required by the local government where the business is located and* an affidavit from his employer setting forth the facts ~~[that]~~ *which* show ~~[:~~

~~(1) The employer is licensed to do business in the State of Nevada; and~~

~~(2) The~~ *that the* employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless he has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of $10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 32. NRS 240.031 is hereby amended to read as follows:

240.031 A notary public who is a resident of an adjoining state shall submit to the Secretary of State annually, within 30 days before the anniversary date of his appointment as a notary public, ~~[an affidavit containing]~~ *a copy of the state business license of his place of employment in the State of Nevada issued pursuant to NRS 360.780, a copy of any license required by the local government where the business is located and* the information required pursuant to subsection 2 of NRS 240.030.

Sec. 33. NRS 240.147 is hereby amended to read as follows:

240.147 ~~[1.]~~ It is unlawful for a person to knowingly destroy, deface or conceal a notarial record.

~~[2. As used in this section, "notarial record" means:~~

~~(a) The journal that a notary public is required to keep pursuant to NRS 240.120; and~~

~~(b) A document or other evidence retained by a notary public to record the performance of a notarial act.]~~

Sec. 34. This act becomes effective on July 1, 2009.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 92.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment prohibits a person who has been convicted of a crime relating to identity theft, robbery or fraud from being appointed as a notary. We agreed with this amendment.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 194.

The following Assembly amendments were read:

Amendment No. 590.

"SUMMARY—Revises provisions governing the appointment and duties of public administrators and guardians. (BDR 20-181)"

"AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. Sections 2 and 9 of this bill provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) Section 2 also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) Section 3 of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. Section 4 of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) Sections 5 and 6 of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) Section 7 of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties).

(NRS 253.041, 253.0415-253.0435) Section 14 of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) Section 14 repeals those provisions.

This bill also amends provisions governing public guardians. Section 10 of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) Section 11 of this bill ~~[adds to]~~ *revises* the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. *Further, section 11 provides that a county is not liable on any written or oral contract entered into by a public guardian of the county for or on behalf of the ward.* (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) Section 12 of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

Finally, section 12.5 of this bill authorizes a court to terminate the appointment of a public guardian as an individual guardian of a person or estate if the public guardian, after exercising due diligence, is unable to identify a source to pay for the care of the ward.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~[subsection 4,]~~ *subsections 4 and 5,* public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of *Humboldt,* Lander, Lincoln and White Pine Counties are ex officio public administrators of *Humboldt County,* Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to

NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. There are no relatives of the deceased who are able to protect the property; ~~[and]~~ *or*

2. Failure to do so could endanger the property.

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~[a ward or]~~ a decedent, may donate property that has a value of less than $250 to a nonprofit organization, or destroy property that has a value of less than $100, if ~~[:~~

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A]~~ *a* notice of intent to donate or destroy the property is ~~[:~~

~~(1) Mailed]~~ *mailed* by certified mail *or delivered personally* to the ~~[ward's or]~~ decedent's next of kin ~~[at his last known home address; or~~

~~(2) Personally delivered to him,~~

~~➥ and that person fails to claim]~~ *and* the property *is not claimed* within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~[ward or]~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than $100 or, if the value of the property is $100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~[a person dying]~~ *an* intestate *decedent* if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~[a person dying intestate,]~~ *an intestate decedent*, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~[The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.]~~ *The public administrator shall not administer any estate:*

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[$50,000]~~ *$100,000* or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[$50,000:]~~ *$100,000:*

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board *of county commissioners* a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board . ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate . ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of *Humboldt,* Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~[keep]~~ *:*

1. Keep financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[.]~~ *; and*

2. Retain:

(a) All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and

(b) All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~[he:~~

~~(a) Has]~~ ~~*[:]*~~ *the proposed ward is a resident of that county and:*

(a) The proposed ward has no relative or friend ~~[able]~~ *suitable* and willing to serve as his guardian; ~~[and~~

~~(b) Is]~~

~~*[(b) The proposed ward is* a resident of that county]~~ ~~[.]~~ ~~*[;*~~

~~*(c) The public guardian is able to identify a source to pay for the care of the proposed ward; and*~~

~~*(d) The public guardian is able to establish a case plan for the guardianship.]~~* *or*

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

> The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ *before* the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. *In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.*

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 12.5. NRS 253.250 is hereby amended to read as follows:

253.250 The court may, at any time, terminate the appointment of a public guardian as an individual guardian *of a person or of an estate* upon petition by the ward ~~[or]~~ *, the public guardian,* any interested person or upon the court's own motion if ~~[it]~~ *:*

1. It appears that the services of the public guardian are no longer necessary ~~[.]~~ *; or*

2. After exercising due diligence, the public guardian is unable to identify a source to pay for the care of the ward.

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the

public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS 253.030, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of

Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive.

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent.

253.0445 County whose population is less than 100,000: Access to information.

253.045 Additional duties in county whose population is less than 100,000.

Amendment No. 747.

"SUMMARY—Revises provisions governing the appointment and duties of public administrators and guardians. (BDR 20-181)"

"AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. Sections 2 and 9 of this bill provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) Section 2 also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) Section 3 of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. Section 4 of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) Sections 5 and 6 of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) Section 7 of this

bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) Section 14 of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) Section 14 repeals those provisions.

This bill also amends provisions governing public guardians. Section 10 of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) Section 11 of this bill revises the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. Further, section 11 provides that a county is not liable on any written or oral contract entered into by a public guardian of the county for or on behalf of the ward. (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) Section 12 of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

Finally, section 12.5 of this bill authorizes a court to terminate the appointment of a public guardian as an individual guardian of a person or estate if the public guardian, after exercising due diligence, is unable to identify a source to pay for the care of the ward ~~[.]~~ *and, as a consequence, continuation of the guardianship would confer no benefit upon the ward.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of

process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~[subsection 4,]~~ *subsections 4 and 5,* public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of *Humboldt,* Lander, Lincoln and White Pine Counties are ex officio public administrators of *Humboldt County,* Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. There are no relatives of the deceased who are able to protect the property; ~~[and]~~ *or*

2. Failure to do so could endanger the property.

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~[a ward or]~~ a decedent, may donate property that has a value of less than $250 to a nonprofit organization, or destroy property that has a value of less than $100, if ~~[:~~

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A]~~ *a* notice of intent to donate or destroy the property is ~~[:~~

~~(1) Mailed]~~ *mailed* by certified mail *or delivered personally* to the ~~[ward's or]~~ decedent's next of kin ~~[at his last known home address; or~~

~~(2) Personally delivered to him,~~

~~➥ and that person fails to claim]~~ *and* the property *is not claimed* within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~[ward or]~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than $100 or, if the value of the property is $100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~[a person dying]~~ *an* intestate *decedent* if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~[a person dying intestate,]~~ *an intestate decedent,* regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~[The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.]~~ *The public administrator shall not administer any estate:*

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[$50,000]~~ *$100,000* or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[$50,000:]~~ *$100,000:*

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board *of county commissioners* a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board . ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate . ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of *Humboldt,* Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~[keep]~~ *:*

1. Keep financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[.]~~ *; and*

2. Retain:

(a) All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and

(b) All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~[he:~~

~~(a) Has]~~ *the proposed ward is a resident of that county and:*

(a) The proposed ward has no relative or friend ~~[able]~~ *suitable* and willing to serve as his guardian; ~~[and~~

~~(b) Is a resident of that county.]~~ *or*

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

> The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ *before* the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. *In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.*

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 12.5. NRS 253.250 is hereby amended to read as follows:

253.250 The court may, at any time, terminate the appointment of a public guardian as an individual guardian *of a person or of an estate* upon petition by the ward ~~[or]~~ *, the public guardian,* any interested person or upon the court's own motion if ~~[it]~~ *:*

1. It appears that the services of the public guardian are no longer necessary ~~[.]~~ *; or*

2. After exercising due diligence, the public guardian is unable to identify a source to pay for the care of the ward ~~[.]~~ and, as a consequence, continuation of the guardianship would confer no benefit upon the ward.

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or

an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS 253.030, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of

Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive.

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent.

253.0445 County whose population is less than 100,000: Access to information.

253.045 Additional duties in county whose population is less than 100,000.

Senator Lee moved that the Senate concur in the Assembly amendments to Senate Bill No. 194.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendments clarify the eligibility for a public guardian and set forth parameters on when a court may terminate a public guardianship. These amendments were agreeable to the Senate Committee on Government Affairs.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 239.

The following Assembly amendment was read:

Amendment No. 920.

"SUMMARY—Provides for greater coordination of Nevada's economic development and workforce development goals. (BDR 18-1080)"

"AN ACT relating to state departments; providing for greater coordination of Nevada's economic development and workforce development goals; ~~[requiring the Department of Employment, Training and Rehabilitation to adopt regulations regarding small business investment companies and a small business investment credit;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1.3 of this]~~ *This* bill requires the Governor's Workforce Investment Board to establish industry sector councils to identify job training and education programs to best meet regional economic development goals. ~~[Section 1.3]~~ *This bill* also requires the Board to identify and seek federal funding to provide grants to fund those job training and education programs.

~~[Section 1.7 of this bill requires the Department of Employment, Training and Rehabilitation to adopt regulations for a program for a small business investment credit and a small business investment company.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 232 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 1.3 and 1.7 of this act.~~

~~Sec. 1.3.]~~ *a new section to read as follows:*

1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted; and

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection 2:

(a) Must be composed of representatives from:

(1) Employers within that industry;

(2) Organized labor within that industry;

(3) Universities and community colleges; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection 2.

4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

5. As used in this section, "industry sector" means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.

Sec. 1.7. ~~[*1. The Department shall adopt regulations creating a program for a small business investment credit and providing the powers and duties of a small business investment company.*~~

~~*2. A person may apply to the Department for a small business investment credit. Such an application must be made on a form prescribed by the Department.*~~

~~*3. A person may apply to the Department for certification as a small business investment company. Such an application must include, without limitation:*~~

~~*(a) A completed application for certification as a small business investment company on a form prescribed by the Department;*~~

~~*(b) A nonrefundable fee of $7,500;*~~

~~*(c) An audited financial statement accompanied by a report of audit containing the unqualified opinion of an independent certified public accountant issued not more than 35 days before the date of the application which states that the applicant has an equity capitalization of $500,000 or more in the form of unencumbered cash, marketable securities or other liquid assets;*~~

~~*(d) Proof acceptable to the Department that the company has at least two persons employed or otherwise engaged to manage the money of the company who each have a minimum of 5 years of experience in money management in the venture capital or small business investment industry; and*~~

~~*(e) Proof acceptable to the Department that the primary business purpose of the company is to make investments in industry sectors that the Department deems important, including, without limitation, global energy, rural economic development, enterprise zones and minority-owned businesses.*~~

~~*4. As used in this section, "industry sector" has the meaning ascribed to it in section 1.3 of this act.]*~~ *(Deleted by amendment.)*

Sec. 2. NRS 232.900 is hereby amended to read as follows:

232.900 As used in NRS 232.900 to 232.960, inclusive, *and* ~~*[sections 1.3 and 1.7]*~~ *section 1 of this act*, unless the context otherwise requires:

1. "Department" means the Department of Employment, Training and Rehabilitation.

2. "Director" means the Director of the Department.

Sec. 3. This act becomes effective upon passage and approval.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 239.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment deletes a requirement that the Department of Employment, Training, and Rehabilitation adopt regulations for a program for a small business investment credit. We learned there may not be sufficient funding for this program, and we have decided to concur.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 267.

The following Assembly amendment was read:

Amendment No. 656.

"SUMMARY—Makes various changes concerning ~~[the procedures for adopting administrative regulations and the requirements of the Open Meeting Law.]~~ *governmental administration.* (BDR 18-62)"

"AN ACT relating to governmental administration; revising the provisions governing the notice of intention to act on a proposed regulation by a state agency subject to the Nevada Administrative Procedure Act; providing that workshops and hearings regarding a proposed regulation of such a state agency are subject to the Open Meeting Law; revising the procedure for the review of permanent regulations and certain temporary regulations by the Legislative Commission or the Subcommittee to Review Regulations; requiring a public body to make available certain documents to the public at a public meeting; *eliminating certain nonprofit entities affiliated with a university or college from the definition of "university foundation" for purposes of the Open Meeting Law, the requirements relating to public records, the exemption from the tax on the transfer of real property and other requirements pertaining to university foundations;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Administrative Procedure Act requires each state agency that is not exempt from the Act to provide 30 days' notice of its intended action on any proposed regulation. The agency is required to wait to give such notice until at least 30 days after delivering the proposed regulation to the Legislative Counsel or until the agency has received the approved or revised text of the proposed regulation from the Legislative Counsel, whichever occurs first. (NRS 233B.060) Section 1 of this bill makes receipt of the approved or revised text of the proposed regulation from the Legislative Counsel the only required condition before provision of the 30 days' notice. Section 3 of this bill makes a conforming change.

Existing law prescribes a procedure for the review of certain temporary regulations and of adopted permanent regulations by the Legislative Commission or the Subcommittee to Review Regulations for conformity with statutory authority and legislative intent. Under existing law, unless the Commission or Subcommittee objects to such a temporary or permanent regulation, the regulation becomes effective. (NRS 233B.0633, 233B.067, 233B.0675) Sections 4-6 of this bill require the Commission or Subcommittee to either affirmatively approve or object to a regulation.

The Open Meeting Law requires all meetings of public bodies to be open and public unless otherwise provided by a specific statute. (NRS 241.020) Section 2 of this bill provides that each workshop and hearing required to be conducted concerning administrative regulations is subject to the Open Meeting Law. (NRS 233B.061)

Under the Open Meeting Law, a public body is required, upon request and at no charge, to provide a copy of an agenda for the meeting, any proposed ordinance or regulation to be discussed at the meeting, and other supporting documents to members of the public body for an item on the agenda. (NRS 241.020) Section 7 of this bill requires that a public body make at least one copy of those documents available to the public at the public meeting to which the documents pertain.

Section 8 of this bill amends the definition of "university foundation" to exclude certain nonprofit organizations affiliated with a university or college for the purposes of provisions applicable to university foundations, including the Open Meeting Law, the requirements relating to public records and the exemption from the tax on the transfer of real property. (NRS 239.005, 241.015, 375.090, 396.405, 396.535)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and NRS 233B.061, before adopting, amending or repealing:

(a) A permanent regulation, the agency must, ~~[30 days or more after delivering a copy of the proposed regulation to the Legislative Counsel, or]~~ after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ *must be approved* by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ *must be approved* by the Legislative Commission or the Subcommittee to Review Regulations.

Sec. 2. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.

5. ~~[The agency shall keep, retain and make available for public inspection written minutes and an audio recording or transcript of each public hearing held pursuant to subsection 3 in the manner provided in NRS 241.035.]~~ *Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS.*

Sec. 3. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. ~~[At least 30 days before the time of giving notice of its intention]~~ *An agency that intends* to adopt, amend or repeal a permanent regulation ~~[an agency shall]~~ *must* deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 4. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the temporary regulation at its next regularly scheduled meeting if the request for examination of the temporary regulation is received more than 10 working days before the meeting; or

(b) Refer the temporary regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the temporary regulation was referred, ~~[does not object to]~~ *approves* the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary

of State. If the Commission or the Subcommittee objects to the temporary regulation after determining that:

(a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;

(b) The temporary regulation does not conform to statutory authority; or

(c) The temporary regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.

6. If the Legislative Commission or the Subcommittee to Review Regulations has objected to a temporary regulation, the agency that adopted the temporary regulation shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission or the Subcommittee for review. If ~~[there is no objection to]~~ *the Legislative Commission or the Subcommittee approves* the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

7. If the Legislative Commission or the Subcommittee to Review Regulations objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission or the Subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.

Sec. 5. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

➥ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred, ~~[does not object to]~~ *approves* the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or Subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority; or

(c) The regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members of the Legislative Commission.

Sec. 6. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission, or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067, has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the

regulation to the Commission or Subcommittee for review. If ~~[there is no objection to]~~ *the Commission or Subcommittee approves* the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or Subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or Subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 7. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ *The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain.* As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 8. *NRS 396.405 is hereby amended to read as follows:*

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection 14 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated ~~[exclusively]~~ *primarily* for the purpose of ~~[supporting]~~ *fundraising in support of* a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

~~[Sec. 8.]~~ *Sec. 9.* This act becomes effective on July 1, 2009.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 267.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Assembly amendment changes the definition of "university foundation" to exclude private, nonprofit organizations such as alumni associations. The result of this change is that alumni associations will be exempt from the Open Meeting Law and public records' provisions. University foundations will no longer be eligible for an exemption from the Real Property Transfer Tax.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 68.

` The following Assembly amendments were read:

Amendment No. 626.

"SUMMARY—Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. (BDR 10-281)"

"AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community. Section 2 of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. ~~[The provisions of this section apply only to common-interest communities created on or after October 1, 2009.~~

~~3.]~~ As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material,

together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) *Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and*

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Amendment No. 877.

"SUMMARY—Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. (BDR 10-281)"

"AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community. Section 2 of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201) *Section 6 of this bill provides that if a common-interest community was created before October 1, 2009, the requirements of the bill do not apply to the common-interest community until January 1, 2013.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) *Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and*

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the amendatory provisions of this act do not apply to the common-interest community until January 1, 2013.

Senator Care moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 68.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This bill deals with the maintenance of certain security walls in homeowners' associations. In one amendment, they deleted the prospective effect of what we did. In the other, they altered the effective date of the entire bill.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 183.

The following Assembly amendment was read:

Amendment No. 751.

"SUMMARY—Revises various provisions governing common-interest communities. (BDR 10-70)"

"AN ACT relating to common-interest communities; ~~[revising provisions relating to systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in common-interest communities;]~~ revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community

from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 45 of this bill specify the circumstances under which a specification regarding the color of such a system is enforceable.]~~

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

~~[Section 4 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.~~

~~Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 5 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 6 of this bill prohibits a common-interest community from using information from radar guns or other devices unless the radar gun or device meets certain specifications and the person operating the radar gun or device meets certain qualifications.]~~

Section 5.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels, or the Administrator of the Real Estate Division of the Department of Business and Industry with the Commission's approval, to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 8, 14, 15, 18, 20 and 21 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, sections 9 and 22 of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is

excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares. A master association which governs a planned community that is exempt from the provisions of chapter 116 of NRS is also excluded from these new provisions.

Section 11 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 46 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit's owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4) the association must provide written confirmation when a fine is paid. (NRS 116.31031)

Section 13 of this bill requires an association to establish an account for a unit owner's payments for fines, which must be kept separate from any account established for assessments. (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) Section 14 also provides that an association is not obligated to distribute any disclosure made by a candidate for the executive board if the disclosure contains information that is believed to be defamatory, libelous or profane.

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 14 also requires the declarant to pay for the costs of the ancillary audit.

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083)

~~[Section 23 of this bill revises provisions relating to financial statements for certain associations. (NRS 116.31144)~~

~~Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151,~~

~~116.31152) Section 24 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.]~~

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 26 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn, unless the withdrawal is to transfer money to the reserve account or to make automatic payments for utilities.

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) Section 28 also provides that if an official publication contains any mention of a candidate or ballot question or contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 28 provides immunity from criminal or civil liability for an association and its officers, employees and agents who publish or disclose information pursuant to the duties imposed by this section.

Section 29 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187)

~~[Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 30 of this bill provides that unless at the time a unit's owner purchases his unit the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.]~~

Section 31 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

~~[Existing law provides that certain common interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 32 of this bill prohibits a common interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.~~

~~Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) Section 33 of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, section 33 provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except it may charge a fee to transfer the unit to a new owner in the association books and records based on the actual cost incurred.]~~

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

~~[Section 38 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. In addition, section 38 requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale. (NRS 116A.410)]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 111.239 is hereby amended to read as follows:~~

~~111.239 1.~~ [Any] ~~*Except as otherwise provided in subsection 2, any* covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.~~

~~*2. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:*~~

~~*(a) In existence on July 1, 2007; or*~~

~~*(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.*~~

~~*3.* For the purposes of this section [, "unreasonably] ~~:~~

~~*(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.*~~

~~*(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.*~~

~~*(c) "Unit" has the meaning ascribed to it in NRS 116.093.*~~

~~*(d) "Unreasonably* restricts the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.]~~ *(Deleted by amendment.)*

Sec. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. *1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:*

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section:

(a) An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

(b) A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.

Sec. 4. ~~*[1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.*~~

~~*2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.*~~

~~*3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~*[1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.*~~

~~*2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.*~~

~~*3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.]*~~ *(Deleted by amendment.)*

Sec. 5.5. *The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.*

Sec. 6. ~~*[A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person unless:*~~

~~*1. The radar gun or other device:*~~

~~*(a) Is, or was at the time of purchase, on the Conforming Product List of the International Association of Chiefs of Police; and*~~

~~*(b) Is inspected at least every 3 years to determine whether its level of power and structural integrity comply with the minimum performance specifications for that model established by the United States Department of Transportation; and*~~

~~*2. The person operating the radar gun or other device has successfully completed a course of training in the proper use of the radar gun or other device.]*~~ *(Deleted by amendment.)*

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes

would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; ~~[or]~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~[.]~~ *, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;*

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) ~~[Prohibit]~~ *Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit* a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; ~~[or]~~

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan ~~[.]~~ *; or*

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section*, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 12. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or ~~[guest]~~ *invitee* of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or ~~[guest]~~ *invitee* of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or ~~[guest]~~ *invitee* of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or ~~[guest]~~ *invitee* of the unit's owner for each violation, except that ~~[a]~~ *:*

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~[.]~~ *; and*

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➥ *For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.*

3. The executive board must schedule the date, time and location for the hearing on the violation so that the *unit's owner and, if different, the* person

against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless *the fine is paid before the hearing or unless* the *unit's owner and, if different, the* person against whom the fine will be imposed:

(a) ~~[Pays the fine;~~

~~(b)]~~ Executes a written waiver of the right to the hearing; or

~~[(c)]~~ *(b)* Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. *A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:*

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ *9.* Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the *units' owners or* residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ *10. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.*

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 13. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or ~~[guest]~~ *invitee* of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[:~~

~~1. Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and~~

~~2. Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.]~~ *shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.*

Sec. 14. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless

the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. ~~[The]~~ *Except as otherwise provided in this subsection, the* association shall distribute the disclosures , *on behalf of the candidate,* to each member of the association with the ballot in the manner established in the bylaws of the association. *The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.*

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ *Except as otherwise provided in NRS 116.31105, the* election of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:]~~ *in the following manner:*

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the

governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 15. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. ~~[The]~~ *Except as otherwise provided in NRS 116.31105, the* removal of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:]~~ *in the following manner:*

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the

executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 16. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~[inception]~~ *the last audit* of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. *The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.*

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's

property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 17. NRS 116.310395 is hereby amended to read as follows:

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~[sale]~~ *close of escrow* of a unit.

Sec. 18. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total

number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the ~~[units']~~ owners *of time shares* will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any

proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the

minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 19. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ *quarter, and not less than once every 100* days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every ~~[90]~~ *quarter, and not less than once every 100* days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 20. NRS 116.311 is hereby amended to read as follows:

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner

has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~[A]~~ *Except as otherwise provided in this subsection, a* vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association . ~~[unless]~~ *A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if* the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 21. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community

created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

3. *In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.*

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

~~[4.]~~ *5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.*

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~[5.]~~ *7.* When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 22. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~[If]~~ *Except as otherwise provided in subsection 8, if* the declaration so provides, in a common-interest community that consists of at

least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. ~~[In]~~ *Except as otherwise provided in subsection 8, in* addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 23. ~~[NRS 116.31144 is hereby amended to read as follows:~~

~~116.31144 1. Except as otherwise provided in~~ [subsection 2,] ~~*this section*, the executive board shall:~~

~~(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be~~ [audited] ~~*reviewed* by an independent certified public accountant at least once every 4 fiscal years.~~

~~(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be~~ [:

~~(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and~~

~~(2) Reviewed]~~ ~~*reviewed* by an independent certified public accountant every fiscal year .~~ [for which an audit is not conducted.]

~~(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.~~

~~2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.~~

~~3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:~~

~~(a) The qualifications necessary for a person to audit or review financial statements of an association;~~ [and]

~~(b) The standards and format to be followed in auditing or reviewing financial statements of an association~~ [.] ~~*; and*~~

~~*(c) The requirement that an audit or review of the financial statements of an association be completed within 210 days after the end of the fiscal year.]*~~ *(Deleted by amendment.)*

Sec. 24. ~~[NRS 116.3115 is hereby amended to read as follows:~~

~~116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.~~

~~2. Except for assessments under subsections 4 to 7, inclusive:~~

~~(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.~~

~~(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. *Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community.*~~

~~3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.~~

~~4. To the extent required by the declaration:~~

~~(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and~~

~~(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.~~

~~5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.~~

~~6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.~~

~~7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.~~

~~8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.~~

~~9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.~~] *(Deleted by amendment.)*

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 116.31153 is hereby amended to read as follows:

116.31153 *1.* Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; or

(b) Make automatic payments for utilities.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; ~~[and]~~

(c) A contract between the association and an attorney ~~[.]~~ *; and*

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and

without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 29. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 30. ~~[NRS 116.335 is hereby amended to read as follows:~~

~~116.335 1. [Except as otherwise provided in] *Unless, at the time a unit's owner purchased his unit,* the declaration [,] *prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.*~~

~~*2. Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit,* an association may not require [a] *the* unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.~~

~~[2.] *3.* The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.]~~ *(Deleted by amendment.)*

Sec. 31. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the*

unit's owner at least 10 days before the association interrupts any utility service.

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 32. ~~[NRS 116.350 is hereby amended to read as follows:~~

~~116.350 1. In a common interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.~~

~~2. [The]~~ ~~*Except as otherwise provided in subsection 3, the*~~ ~~provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of *inoperable vehicles*, recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.~~

~~*3. In a common interest community, the executive board shall not and the governing documents must not prohibit a person from:*~~

~~*(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:*~~

~~*(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or*~~

~~*(2) If the person is:*~~

~~*(I) A unit's owner;*~~

~~*(II) Parking the vehicle within 50 yards of his unit; and*~~

~~*(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle and which requires the person to park the vehicle overnight at his residence for the purpose of responding to requests for public utility services; or*~~

~~*(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:*~~

~~*(1) While the person is engaged in his official duties; or*~~

~~*(2) If the person is:*~~

~~*(I) A unit's owner;*~~

~~*(II) Parking the vehicle within 50 yards of his unit; and*~~

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle and which requires the person to park the vehicle overnight at his residence for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.] *(Deleted by amendment.)*

Sec. 33. [NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall *, at the expense of the unit's owner,* furnish to a purchaser a resale package [containing] *which is purchased directly from the association and which contains* all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in [paragraphs (a) to (e), inclusive, of] subsection 3 of NRS 116.31152; and

~~(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common interest community of which the unit's owner has actual knowledge.~~

~~2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:~~

~~(a) Cancel the contract pursuant to this subsection; or~~

~~(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.~~

~~3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:~~

~~(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and~~

~~(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.~~

~~4. If the association furnishes the documents and certificate pursuant to subsection 3:~~

~~(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.~~

~~(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.~~

~~(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.~~

~~(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.~~

~~5. If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:~~

~~(a) The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and~~

~~(b) The person or entity shall not charge or attempt to charge any such fee.~~

~~6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.~~

~~[6.] 7. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.~~

~~*8. The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.]* *(Deleted by amendment.)*

Sec. 34. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ *, 3 and 4,* a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A registered agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 35. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ *is registered as a reserve study specialist, or who conducts a study of reserves,* pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 36. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ *"Registration"* means ~~[a permit]~~ *a registration* to conduct a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605 ~~[issued by]~~ *with* the Division pursuant to this chapter.

Sec. 37. NRS 116A.260 is hereby amended to read as follows:

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.

3. Denials of applications made to that district office for examination , *registration* or issuance of a certificate . ~~[or permit.]~~

Sec. 38. ~~[NRS 116A.410 is hereby amended to read as follows:~~

~~116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:~~

~~(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. *The regulations must include, without limitation, provisions that:*~~

~~*(1) Provide for the issuance of a temporary certificate for a 1 year period to a person who:*~~

~~*(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;*~~

~~*(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and*~~

~~*(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.*~~

~~*(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:*~~

~~*(I) Receives an offer of employment as a community manager from an association or its agent; and*~~

~~*(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.*~~

~~*(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association or its agent which offered him employment as described in subparagraph (2).*~~

~~*(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.*~~

~~*(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:*~~

~~*(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and*~~

~~*(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.*~~

~~*(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):*~~

~~*(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and*~~

~~*(II) Must not be treated as a limited, restricted or provisional form of a certificate.*~~

~~(b) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.*~~

~~*(c)* May require applicants to pass an examination in order to obtain a certificate [.] *other than a temporary certificate described in paragraph (a).* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.~~

~~[(c)] *(d)* May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.~~

~~[(d)] *(e)* Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.~~

~~[(e)] *(f)* Must establish rules of practice and procedure for conducting disciplinary hearings.~~

~~2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.~~

~~*3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:*~~

~~*(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and*~~

~~*(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.]*~~ *(Deleted by amendment.)*

Sec. 39. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~[holds a permit.]~~ *registers with the Division on a form provided by the Division.*

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists . ~~[who hold permits.]~~

3. The Division may investigate any reserve study specialist ~~[who holds a permit]~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapters 116 and 116B of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to ~~[issue a permit to]~~ *accept the registration of* a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~[permit]~~ *registration* of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 40. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ *registration,* including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ *for registration.*

(b) May require applicants to pass an examination ~~[in order to obtain a permit.]~~ *for registration.* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person ~~[to whom a permit has been issued,]~~ *who has registered,* including, without limitation, the grounds for placing conditions, limitations or restrictions on ~~[a permit]~~ *registration* and for the suspension or revocation of ~~[a permit.]~~ *registration.*

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for ~~[the issuance of a permit]~~ *registration* in an amount not to exceed the administrative costs of ~~[issuing the permit.]~~ *registration.*

Sec. 41. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~[permit]~~ *registration* shall submit to the Division:

(a) The social security number of the applicant; and

(b) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for *registration or* the issuance of the certificate *;* ~~[or permit;]~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued *and an application for registration may not be accepted* if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 42. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to *a person who is registered or* the holder of a certificate *,* ~~[or permit,]~~ the Division shall deem the *registration or* certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the* holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the *person who is registered or the* holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a *registration or* certificate ~~[or permit]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the *person who is registered or the* holder of the certificate ~~[or permit]~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 43. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or* certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a *registration or* certificate ~~[or permit]~~ by the *person who is registered or the* holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the *person who is registered or the* holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 or 116B of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 or 116B of NRS or the regulations adopted pursuant thereto against the *person who is registered or the* holder of the certificate . ~~[or permit.]~~

Sec. 44. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a *registration or* certificate ~~[or permit]~~ is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person *has not registered or* does not hold the required certificate ~~[or permit]~~ or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 or 116B of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 45. ~~[NRS 278.0208 is hereby amended to read as follows:~~

~~278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property.~~

~~2. [Any]~~ ~~*Except as otherwise provided in subsection 3, any*~~ ~~covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.~~

~~*3. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:*~~

~~*(a) In existence on July 1, 2009; or*~~

~~*(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.*~~

~~*4.* For the purposes of this section [, "unreasonably]~~ ~~*:*~~

~~*(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.*~~

~~*(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.*~~

~~*(c) "Unit" has the meaning ascribed to it in NRS 116.093.*~~

~~*(d) "Unreasonably*~~ restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.~~]~~ *(Deleted by amendment.)*

Sec. 46. The amendatory provisions of section 11 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2009.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Section 38 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Section 34 of this act becomes effective on July 1, 2009.

4. Sections 1 to 8, inclusive, 10, 11, 12, 14 to 21, inclusive, 23 to 33, inclusive, 35, 36, 37 and 39 to 46, inclusive, of this act become effective on October 1, 2009.

5. Sections 9, 13 and 22 of this act become effective on October 1, 2011.

6. Sections 41 and 42 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 183.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

The Assembly undertook a number of deletions to include a provision dealing with smaller homeowner's associations with budgets under $75,000 not needing to go to the expense of annual audits.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 263.

The following Assembly amendments were read:

Amendment No. 684.

"SUMMARY—Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. (BDR S-1003)"

"AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. Sections 1 and 3 of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not ~~[earlier than the first Monday in May of the year in which the election is to be held or later than 5 p.m. on the second Friday after the first Monday in May. (NRS 293.177)]~~ *less than 90 days or more than 100 days before the day of the general city election.*

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~[during the period set forth in subsection 1 of NRS 293.177.]~~ not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~[during the period set forth in subsection 1 of NRS 293.177.]~~ not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ *before the close of filing and any applicable period for withdrawal of candidacy,* must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 5. This act becomes effective upon passage and approval.

Amendment No. 870.

"SUMMARY—Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. (BDR S-1003)"

"AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. Sections 1 and 3 of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with

the City Clerk not less than ~~[90 days or]~~ *5 days or* more than ~~[100]~~ *15* days before the day of the ~~[general city]~~ *statewide primary* election.

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than ~~[90 days or]~~ 5 days or more than ~~[100]~~ 15 days before the day of the ~~[general election.]~~ primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new

section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than ~~[90 days or]~~ 5 days or more than ~~[100]~~ 15 days before the day of the ~~[general election.]~~ primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ *before the close of filing and any applicable period for withdrawal of candidacy,* must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 5. This act becomes effective upon passage and approval.

Amendment No. 891.

"SUMMARY—Amends the Charters of the Cities of Carlin, *Reno* and Wells to revise provisions governing municipal elections. (BDR S-1003)"

"AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; *creating a sixth ward for the City of Reno; requiring that the candidates for Councilman in the City of Reno be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. Sections 1 and ~~[3]~~ *7* of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general city election. *(Carlin City Charter § 5.015; Wells City Charter § 5.015)*

Sections 2 and ~~[4]~~ *8* of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear. *(Carlin City Charger § 5.040; Wells City Charter § 5.040)*

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Councilman. A sixth Councilman represents the City at large. (Reno City Charter §§ 1.050, 2.010) Section 3 of this bill increases the number of wards in Reno to six, and sections 4-6 of this bill replace the office of Councilman at large with the office of Councilman to represent the newly created sixth ward. (Reno City Charter §§ 1.050, 2.010, 5.010, 5.020)

The existing Charter of the City of Reno provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Reno City Charter, §§ 5.010, 5.020) Sections 5 and 6 of this bill amend the Charter of the City of Reno to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~[five]~~ *six* wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 4. Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327,

Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman *must be a resident of the ward from which he is* elected ~~[from a ward]~~ *and* must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~[and one Councilman represent]~~ *represents* the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 5. Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected , ~~[by the qualified voters of the City,]~~ at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[4.]~~ *2.* On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected , ~~[by the qualified voters of the City,]~~ at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[5.]~~ *3.* On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected ~~, [by the qualified voters of the City,]~~ at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

~~[6.]~~ *4.* On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected ~~, [by the qualified voters of the City,]~~ at the general election, Councilmen from the first, third and fifth wards and one Councilman at large, all of whom hold office for a term of 4 years and until their successors have been elected and qualified ~~[.]~~ *pursuant to subsection 5.*

5. On the Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at the general election, Councilmen from the first, third, fifth and sixth wards, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

6. In an election held pursuant to this section:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the City at large.

Sec. 6. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~[Candidates]~~ *A candidate* for *the office of City* Councilman ~~[who represent a specific ward]~~ must be voted upon only by the registered voters of ~~[that ward.]~~ *the ward that he seeks to represent.*

(c) Candidates for Mayor ~~[and Councilman at large]~~ *, Municipal Judge and City Attorney* must be voted upon by ~~[all]~~ *the* registered voters of the City.~~[.~~

~~4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.]~~ *at large.*

~~[Sec. 3.]~~ *Sec. 7.* The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

~~[Sec. 4.]~~ *Sec. 8.* Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ *before the close of filing and any applicable period for withdrawal of candidacy,* must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 9. The City Council of the City of Reno shall, not later than July 1, 2009, establish the boundaries of the ward created by the amendatory provisions of section 3 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the

provisions of section 1.050 of the Charter of the City of Reno, as amended by section 3 of this act.

Sec. 10. Notwithstanding the amendatory provisions of section 4 of this act, a Councilman of the City of Reno who holds office on July 1, 2009, shall:

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 3 of this act for the remainder of his term of office.

~~[Sec. 5.]~~ *Sec. 11. 1.* This *section and sections 1, 2, 7 and 8 of this* act ~~[becomes]~~ *become* effective upon passage and approval.

2. Sections 3 to 6, inclusive, and 9 and 10 of this act become effective:

(a) Upon passage and approval for the purpose of passing any ordinances performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2009, for all other purposes.

Senator Lee moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 263.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Senate Committee on Government Affairs is especially concerned about Amendment No. 891, which inserts language from another bill that was not approved by the Committee regarding the election of Reno City Council members by ward. We would like to discuss all the amendments to this bill in a conference committee.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 60, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The amendment adopted by the Senate clarifies some practices for the State Treasurer and was agreed to by the State Treasurer. We would like a conference committee to discuss this issue further.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Lee, Townsend and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 60.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 130, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The final amendment to Assembly Bill No. 130 adopted by the Senate was ultimately accepted by the Assembly. However, concurrence in both Senate amendments is needed in order to make it work from a technical standpoint. We need a conference committee to make this technical change.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Lee, Horsford and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 130.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 17, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 746 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing health care records. (BDR 54-607)"

"AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than 23 years of age may not be destroyed and that the health care records of other patients may be destroyed after 5 years.

Existing law requires certain providers of health care, including pharmacists, to retain the health care records of patients for 5 years after their receipt or production. (NRS 629.051) Section 2 of this bill ~~[,]~~ *provides that this requirement relating to the retention of records does not apply to pharmacists. Section 2 also:* (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than 23 years of age until the person attains the age of 23 years; and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051:

(1) The health care records of a person who is less than 23 years of age may not be destroyed; and

(2) The health care records of a person who has attained the age of 23 years may be destroyed for those records which have been retained for at least 5 years or for any longer period provided by federal law; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient who is 23 years of age or older may be destroyed after 5 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 *1.* Except as otherwise provided in ~~[subsection 7]~~ *this section and in* regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~[,]~~ *and unless a longer period is provided by federal law,* each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for 5 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The provisions of this section do not apply to a pharmacist.

9. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed $250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter , *unless a longer period of retention is provided by federal law,* keep the Board apprised in writing of the location of the medical records of his patients.

JOYCE WOODHOUSE	MOISES DENIS
VALERIE WIENER	ELLEN B. SPIEGEL
RANDOLPH J. TOWNSEND	LYNN D. STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Woodhouse moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 17.

Senator Woodhouse requested that her remarks be entered in the Journal.

We accepted the Assembly amendments to this bill but requested another amendment, which removed pharmacists from the bill as they only keep health records for two years.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 101, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes relating to securities. (BDR 7-416)"

"AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.630) Section 7 also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to ~~[120]~~ *90* days; and (2) the period for any additional extension of such a delayed notification from 30 days to ~~[60]~~ *45* days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~[one of]~~ the following examinations administered by the ~~[National Association of Securities Dealers, Inc.:]~~ *Financial Industry Regulatory Authority:*

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~[examination]~~ *Uniform Combined State Law Examination* designated as the Series 66 examination ~~[,]~~ *and the General Securities Registered Representative Examination, designated as the Series 7 examination;* or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~[examination]~~ *examinations* required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or

a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the *Investment Adviser Registration Depository, the* Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ *:*

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority,* or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the *Investment Adviser Registration Depository, the* Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ *:*

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority,* or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers,]~~ *Licensed broker-dealers,* sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. *The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any*

person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.

3. Except as otherwise provided in subsection ~~[3,]~~ *4,* the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3.]~~ *4.* The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~[4.]~~ *5.* The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~[,]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority*, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least $50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of $500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of $300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of $300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➥ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[$2,500]~~ *$25,000* for ~~[a single]~~ *each* violation *;* or ~~[$100,000 for multiple violations in a single proceeding or a series of related proceedings; or]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, *reimbursement for* the costs of the proceeding, including investigative costs and attorney's fees ~~[,]~~ *incurred,* may be *ordered and* recovered by the Administrator. *Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.*

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[$2,500]~~ *$25,000* for ~~[a single]~~ *each* violation *;* ~~[or $100,000 for multiple violations in a single proceeding or a series of related proceedings;]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

(1) A temporary restraining order;

(2) A temporary or permanent injunction; or

(3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than $500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[.]~~ *and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.*

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, *Administrator of the Securities Division of the Office of the Secretary of State,* public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 9.5. NRS 239A.100 is hereby amended to read as follows:

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~[60] [120]~~ *90* days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~[30-day] [60-day]~~ *45-day* periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations *, criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General *, the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations , *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General , *the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

TERRY CARE	WILLIAM C. HORNE
ALLISON COPENING	TICK SEGERBLOM
WILLIAM J. RAGGIO	RICHARD MCARTHUR
Senate Conference Committee	*Assembly Conference Committee*

Senator Care moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 101.

Senator Care requested that his remarks be entered in the Journal.

There is nothing in this final bill that this body has not seen before. There was a dispute as to the period in which law enforcement could take to notify an account holder that his records had been subpoenaed and how long it would take law enforcement to seek an extension of that period. We split the time and came up with the final product.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 389, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 760 of the Assembly be concurred in.

VALERIE WIENER	MOISES DENIS
SHIRLEY A. BREEDEN	MARILYN DONDERO LOOP
DENNIS NOLAN	LYNN D. STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 389.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

This is an education bill. It deals with programs and practices to help turn around schools that need improvement. We agreed with the language that came over from the other House.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Townsend, Schneider and Breeden as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 246.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:43 p.m.

SENATE IN SESSION

At 7:51 p.m.

President Krolicki presiding.

Quorum present.

RECEDE FROM SENATE AMENDMENTS

Senator Care moved that the Senate recede from its action on Assembly Bill No. 218.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Assembly Bill No. 218 was the student, University of Las Vegas, Boyd School of Law, gaming bill. We adopted one amendment, rescinded that and, then, adopted three different amendments, two dealing with Gaming Enterprise Districts and the other dealing with the redefinition of event as in sporting events and pari-mutuel issues.

We are receding on our action on the two amendments dealing with Gaming Enterprise Districts. Our Legislative Counsel has advised us there are no longer any Gaming Enterprise District measures in Assembly Bill No. 218.

One of those amendments dealing with Gaming Enterprise Districts was adopted last week into another bill, which was a land-use bill, Senate Bill No. 354. We have already agreed not to concur in that amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

Senator Wiener moved that the Senate do not recede from its action on Assembly Bill No. 52, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Wiener, Breeden and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 52.

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 84, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Copening, Schneider and Amodei as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 84.

President Krolicki appointed Senators Carlton, Copening and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 119.

President Krolicki appointed Senators Carlton, Horsford and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 295.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:58 p.m.

SENATE IN SESSION

At 8:23 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 427, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was rereferred Senate Bill No. 264, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 11—Designating certain members of the Senate as regular and alternate members of the Legislative Commission for the 2009-2011 biennium.

Senator Woodhouse moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 427.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 968.

"SUMMARY—Revises provisions governing ~~[the Public Employees' Retirement System.]~~ *public employees.* (BDR 23-1290)"

"AN ACT relating to *public employees; making various changes to* the Public Employees' Retirement System; *making various changes relating to the Public Employees' Benefits Program;* making various changes relating to ~~[the System;]~~ *relations between local government employers and employee organizations;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Retired public employees receive retirement allowances through membership in and contributions to the Public Employees' Retirement System. (Chapter 286 of NRS) This bill makes a number of changes to the System.

Section 1.8 of this bill reduces the postretirement increases for retirees who become members of the System on or after January 1, 2010, so that the increase in benefits caps at 4 percent at the 12th anniversary and each year thereafter. Currently, it would increase again to 5 percent at the 14th anniversary.

The rates at which a member and an employer contribute to the System and the amount of a member's monthly retirement allowance are based on the member's compensation while employed, subject to certain limitations. (NRS 286.025, 286.410, 286.535, 286.537, 286.551) Section 2 of this bill revises the type of call-back pay that may be considered compensation for employees who become members of the System on or after January 1, 2010.

Section 3 of this bill requires the Public Employees' Retirement Board to post on its website any document that a public employer is required to submit to the System on or after January 1, 2010, relating to the contribution mechanism used by the public employer.

Section 4 of this bill provides that the terms of the members of the Police and Firefighters' Retirement Fund Advisory Committee ~~[is]~~ *are* 4 years and authorizes removal of the members only for cause.

Sections 4.3, 4.5 and 4.7 of this bill allow the Public Employees' Retirement System to retain the contribution rate when it exceeds the actuarially determined rate by less than 2 percent to reduce the unfunded liability of the system. (NRS 286.410, 286.421, 286.450)

Under existing law, public employers are required to periodically file payroll reports and remit contributions to the System with respect to their employees. (NRS 286.460) Section 5 of this bill makes a public employer that reports ineligible wages responsible to the employee for any resulting impact to the employee's benefit.

Under existing law, a member of the System other than a police officer or firefighter is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at any age if he has at least 30 years of service. (NRS 286.510) Section 6 of this bill increases the age at which a member whose effective date of membership is on or after

January 1, 2010, is eligible to retire with at least 10 years of service from 60 years to 62 years.

Under existing law, a member of the System who is a police officer or firefighter is eligible to retire at age 65 if he has at least 5 years of service, at age 55 if he has at least 10 years of service, at age 50 if he has 20 years of service and at any age if he has at least 25 years of service. (NRS 286.510) Section 6 of this bill provides that such a member whose effective date of membership is on or after January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at age ~~[55]~~ *50* if he has 20 years of service, thus eliminating the ability of such later-hired police officers and firefighters to retire after 25 years of service regardless of age.

Under existing law, a retirement benefit is required to be reduced by 4 percent of the unmodified benefit for each full year, and an additional 0.33 percent for each additional month, that the member is under the appropriate retirement age. (NRS 286.510) Section 6 of this bill increases the amount of such reductions for members who have an effective date of membership on or after January 1, 2010, to 6 percent of the unmodified benefit for each full year, and an additional 0.5 percent for each additional month, that the member is under the appropriate retirement age.

Under existing law, the monthly retirement allowance is calculated by multiplying a member's average compensation, over the member's 36 consecutive months of highest compensation, by 2.5 percent for every year of service earned before July 1, 2001, and 2.67 percent for every year of service earned thereafter. (NRS 286.551) Section 7 of this bill provides that the monthly retirement allowance for each member whose effective date of membership is on or after January 1, 2010, will be determined by multiplying the member's average compensation by 2.5 percent for every year of service. Section 7 also limits, for a member whose effective date of membership is on or after January 1, 2010, to 10 percent per year the amount of an increase in compensation that can be considered when determining a retirement allowance ~~[.]~~ *, as calculated over a 60-month period that commences 24 months immediately preceding the 36 consecutive months of highest compensation.* Section ~~[1]~~ *1.7* of this bill then entitles an employee whose retirement allowances are so limited to a refund for a portion of ~~[their]~~ *the employee's* contributions to the System.

~~[Under existing law, a retired employee whose service or disability retirement allowance is payable from the Police and Firefighters' Retirement Fund is entitled to receive his allowance without modification. Upon the death of such a person, the person's spouse at the time of his retirement is entitled, upon reaching 50 years of age, to receive a benefit equal to 50 percent of the allowance to which the retired person was entitled. (NRS 286.667) Section 8 of this bill eliminates this benefit for surviving spouses of such members whose effective date of membership is on or after~~

~~January 1, 2010, and, therefore, to provide such a benefit for his spouse, the member would be required to elect a modified benefit.]~~

Existing law prescribes certain requirements relating to the reinstatement by a retired public officer or employee, or surviving spouse thereof, of coverage under the health insurance plan of his last public employer. (NRS 287.0475) Sections 9 and 12 of this bill bifurcate the reinstatement requirements such that section 9 contains the requirements for retirees of local governments to reinstate coverage under the plans of their former local government employer and section 12 contains the requirements for retirees of the State to reinstate coverage under the Public Employees' Benefits Program.

Under existing law, a state agency is required to pay to the Program a certain portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. (NRS 287.046) Calculation of the subsidy for local government retirees is made in the same manner. (NRS 287.023) For employees who are initially hired by the State on or after January 1, 2010, section 11 of this bill: (1) eliminates the subsidy for coverage under the Program for retired officers and employees who have less than 15 years of service, with the exception of disabled retirees; and (2) requires continuous coverage under the Program by persons since their retirement to qualify for the subsidy. Section 10 of this bill makes conforming changes for local government retirees.

Existing law sets forth various requirements concerning relations between local governments and their employees. Section 13 of this bill requires a new, extended or modified collective bargaining agreement to be approved by the governing body of the local government employer at a public hearing. It also requires the chief executive officer of the local government to provide a report on the fiscal impact of the agreement.

Section 14 of this bill adds a requirement that before a dispute can be submitted to a fact finder, the parties to the dispute governed by chapter 288 of NRS must have failed to reach an agreement after at least six meetings.

Sections 14, 15 and 16 of this bill require a fact finder or arbitrator, in determining the financial ability of a local government employer to grant monetary benefits, to consider funding for the current year being negotiated, or, in the case of a multi-year contract, the ability to pay over the life of the contract. If the fact finder or arbitrator determines that there is such a current financial ability, he is required to consider, to the extent appropriate, the compensation of other government employees, both in an out of this State. Sections 14, 15 and 16 also require local government employers subject to collective bargaining to hold an open public meeting within 45 days after the receipt of a decision from a fact finder or arbitrator, as applicable. The meeting must include a discussion of the issues, the statement of the fact finder or arbitrator and the overall fiscal impact of the decision.

The fact finder or arbitrator must not be asked to discuss the decision during the meeting.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. *The Legislature hereby finds and declares that to address the impact of the severe financial crisis in the State of Nevada during the 2009-2011 biennium, the following changes were required to be made to the Public Employees' Benefits Program:*

1. The premiums in each tier of coverage for active state officers and employees and their dependents paid by the State of Nevada were reduced by approximately 5 percent.

2. To qualify for the portion of the costs of premiums for coverage under the Program paid by the State of Nevada for retired officers and employees requires continuous coverage under the Program since retirement.

3. Premium increases for the Health Maintenance Organization were held to a maximum of 5 percent for Fiscal Year 2009-2010.

4. Neurotherapy and psychotherapy benefits for Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder, which were added to the Program as of July 1, 2008, were eliminated.

5. The health assessment questionnaire and the accompanying incentives of a 50 percent reduction in the deductible and enhanced dental benefit for participation were eliminated.

6. A single deductible for the preferred provider organization plan was instituted, which meant a deductible of $725 for an individual and $1,450 for a family, compared to the current deductibles of $500 for an individual and $1,000 for a family on the most popular low-deductible plan.

7. The annual out-of-pocket maximum to be paid by an employee was indexed at 50 percent of medical inflation.

8. The subsidy for employees who are initially hired on or after January 1, 2010, and retire with less than 15 years of service was eliminated.

9. The annual deductible was indexed at 100 percent of medical inflation.

Sec. 1.5. Chapter 286 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 1.7 and 1.8 of this act.*

Sec. 1.7. 1. A person who becomes a member of the System on or after January 1, 2010, and whose monthly service retirement allowance is determined using an average compensation amount limited by the provisions of subsection 4 of NRS 286.551 is entitled to a refund from his individual account of the difference between:

(a) The amount of his employee contribution pursuant to NRS 286.410; and

(b) The amount the employee contribution would have been had it been actuarially determined to account for the limits imposed by the provisions of subsection 4 of NRS 286.551.

2. The System shall pay any amount to which a person is entitled pursuant to subsection 1 upon the final determination of the amount of the person's benefit, but not later than 6 months after the effective date of his retirement.

Sec. 1.8. 1. Except as otherwise provided in subsection 2, for a person who retires and who has an effective date of membership on or after January 1, 2010, allowances or benefits must be increased once each year on the first day of the month immediately following the anniversary of the date the person began receiving the allowance or benefit, by the lesser of:

(a) Two percent following the 3rd anniversary of the commencement of benefits, 3 percent following the 6th anniversary of the commencement of benefits, 3.5 percent following the 9th anniversary of the commencement of benefits, 4 percent following the 12th anniversary of the commencement of benefits and each year thereafter; or

(b) The average percentage of increase in the Consumer Price Index (All Items) for the 3 preceding years, unless a different index is substituted by the Board.

2. In any event, the allowance or benefit of a member must be increased by the percentages set forth in paragraph (a) of subsection 1 if the allowance or benefit of a member has not increased at a rate greater than or equal to the average of the Consumer Price Index (All Items), unless a different index is substituted by the Board, for the period between the date of his retirement and the date specified in subsection 1.

3. The Board may use a different index for the calculation made pursuant to paragraph (b) of subsection 1 if:

(a) The substituted index is compiled and published by the United States Department of Labor; and

(b) The Board determines that the substituted index represents a more accurate measurement of the cost of living for retired employees.

4. The base from which the increase provided by this section must be calculated is the allowance or benefit in effect on the day before the increase becomes effective.

Sec. 2. NRS 286.025 is hereby amended to read as follows:

286.025 1. Except as otherwise provided by specific statute, "compensation" is the salary paid to a member by his principal public employer.

2. The term includes:

(a) Base pay, which is the monthly rate of pay excluding all fringe benefits.

(b) Additional payment *:*

(1) As applicable to a member who has an effective date of membership before January 1, 2010, for longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal workweek or pay period for that employee, holding oneself ready for duty while off duty and returning to duty after one's regular working hours.

(2) As applicable to a member who has an effective date of membership on or after January 1, 2010, for longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal workweek or pay period for that employee, and, holding oneself ready for duty while off duty and returning to duty within 12 hours after one's regular working hours to respond to an emergency. As used in this sub-subparagraph, "emergency" means a sudden, unexpected occurrence that is declared by the governing body or chief administrative officer of the public employer to involve clear and imminent danger and require immediate action to prevent and mitigate the endangerment of lives, health or property.

(c) Payment for extra duty assignments if it is the standard practice of the public employer to include such pay in the employment contract or official job description for the calendar or academic year in which it is paid and such pay is specifically included in the member's employment contract or official job description.

(d) The aggregate compensation paid by two separate public employers if one member is employed half-time or more by one, and half-time or less by the other, if the total does not exceed full-time employment, if the duties of both positions are similar and if the employment is pursuant to a continuing relationship between the employers.

3. The term does not include any type of payment not specifically described in subsection 2.

Sec. 3. NRS 286.190 is hereby amended to read as follows:

286.190 The Board:

1. Has the powers and privileges of a body corporate and, subject to the limitations of this chapter, is responsible for managing the System.

2. Shall:

(a) Arrange for a biennial actuarial valuation and report of the actuarial soundness of the System to be prepared by an independent actuary based upon data compiled and supplied by employees of the System, and shall adopt actuarial tables and formulas prepared and recommended by the actuary.

(b) Provide for a biennial audit of the System, including the Administrative Fund, by an independent certified public accountant.

(c) Provide an annual report to the Governor, each member of the Legislature, each participating public employer, and each participating employee and employer association, and make the report available to all members upon request. The report must contain, when available, a review of the actuarial valuation required by paragraph (a).

(d) Post on its website any document that a public employer is required to submit to the System on or after January 1, 2010, relating to the contribution mechanism used by the public employer pursuant to NRS 286.410, 286.421 or 286.450.

3. May:

(a) Adjust the service or correct the records, allowance or benefits of any member, retired employee or beneficiary after an error or inequity has been determined, and require repayment of any money determined to have been paid by the System in error, if the money was paid within 6 years before demand for its repayment.

(b) Examine and copy personnel and financial records of public employers.

(c) Receive requests for membership from state, county or municipal entities which are not presently public employers, and determine whether or not any such entity and its employees qualify for membership as provided by this chapter.

(d) Require an annual notarized statement from a retired employee or beneficiary that he is in fact receiving an allowance or benefits, and withhold the allowance or benefits if he fails to provide the statement.

4. As used in this section, "error or inequity" means the existence of extenuating circumstances, including, but not limited to, a member's reasonable and detrimental reliance on representations made by the System or by the public employer pursuant to NRS 286.288 which prove to be erroneous, or the mental incapacity of the member.

Sec. 4. NRS 286.227 is hereby amended to read as follows:

286.227 1. There is hereby created a Police and Firefighters' Retirement Fund Advisory Committee. The Board shall determine the number of its members and appoint the members. ~~[Each]~~

2. The term of each member ~~[serves at the pleasure of the]~~ *is 4 years.*

3. The Board ~~[.~~

~~2.]~~ *may remove a member for cause.*

4. The Committee shall make recommendations to the Board concerning the administration of and benefits payable from the Police and Firefighters' Retirement Fund. The Board shall consult with the Committee on all matters concerning this Fund, and consider its recommendations upon their merits.

Sec. 4.3. NRS 286.410 is hereby amended to read as follows:

286.410 1. The employee contribution rate must be:

(a) The matching contribution rate for employees and employers that is actuarially determined for police officers and firefighters and for regular members, depending upon the retirement fund in which the member is participating.

(b) ~~[Adjusted]~~ *Except as otherwise provided in subsection 2, adjusted* on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report of the immediately preceding year. The adjusted rate must be rounded to the nearest one-quarter of 1 percent.

2. The employee's portion of the matching contribution rate for employees and employers must not be adjusted in accordance with the provisions of paragraph (b) of subsection 1 if ~~[the]~~ :

(a) The existing rate is *lower than the actuarially determined rate but* within one-quarter of 1 percent of the actuarially determined rate.

(b) The existing rate is higher than the actuarially determined rate but is within 1 percent of the actuarially determined rate. If the existing rate is more than 1 percent higher than the actuarially determined rate, the existing rate must be reduced by the amount by which it exceeds 1 percent above the actuarially determined rate.

3. From each payroll during the period of his membership, the employer shall deduct the amount of the member's contributions and transmit the deduction to the Board at intervals designated and upon forms prescribed by the Board. The contributions must be paid on compensation earned by a member from his first day of service.

4. Any employee whose position is determined after July 1, 1971, to be eligible under the early retirement provisions for police officers and firefighters shall contribute the additional contributions required of police officers and firefighters from July 1, 1971, to the date of his enrollment under the Police and Firefighters' Retirement Fund, if employment in this position occurred before July 1, 1971, or from date of employment in this position to the date of his enrollment under the Police and Firefighters' Retirement Fund, if employment occurs later.

5. Except as otherwise provided in NRS 286.430, the System shall guarantee to each member the return of at least the total employee contributions which the member has made and which were credited to his individual account. These contributions may be returned to the member, his estate or beneficiary or a combination thereof in monthly benefits, a lump-sum refund or both.

6. Members with disabilities who are injured on the job and receive industrial insurance benefits for temporary total disability remain contributing members of the System for the duration of the benefits if and while the public employer continues to pay the difference between these benefits and his regular compensation. The public employer shall pay the employer contributions on these benefits.

Sec. 4.5. NRS 286.421 is hereby amended to read as follows:

286.421 1. A public employer that elected to pay on behalf of its employees the contributions required by subsection 1 of NRS 286.410 before July 1, 1983, shall continue to do so, but a public employer may not elect to pay those contributions on behalf of its employees on or after July 1, 1983.

2. An employee of a public employer that did not elect to pay on behalf of its employees the contributions required by subsection 1 of NRS 286.410 before July 1, 1983, may elect to:

(a) Pay the contribution required by subsection 1 of NRS 286.410 on his own behalf; or

(b) Have his portion of the contribution paid by his employer pursuant to the provisions of NRS 286.425.

3. Except for any person chosen by election or appointment to serve in an elective office of a political subdivision or as a district judge or a justice of the Supreme Court of this State:

(a) Payment of the employee's portion of the contributions pursuant to subsection 1 must be:

(1) Made in lieu of equivalent basic salary increases or cost-of-living increases, or both; or

(2) Counterbalanced by equivalent reductions in employees' salaries.

(b) The average compensation from which the amount of benefits payable pursuant to this chapter is determined must be increased with respect to each month beginning after June 30, 1975, by 50 percent of the contribution made by the public employer, and must not be less than it would have been if contributions had been made by the member and the public employer separately. In the case of any officer or judge described in this subsection, any contribution made by the public employer on his behalf does not affect his compensation but is an added special payment.

4. Employee contributions made by a public employer must be deposited in either the Public Employees' Retirement Fund or the Police and Firefighters' Retirement Fund as is appropriate. These contributions must not be credited to the individual account of the member and may not be withdrawn by the member upon his termination.

5. The membership of an employee who became a member on or after July 1, 1975, and all contributions on whose behalf were made by his public employer must not be cancelled upon the termination of his service.

6. If an employer is paying the basic contribution on behalf of an employee, the total contribution rate, in lieu of the amounts required by subsection 1 of NRS 286.410 and NRS 286.450, must be:

(a) The total contribution rate for employers that is actuarially determined for police officers and firefighters and for regular members, depending upon the retirement fund in which the member is participating.

(b) ~~[Adjusted]~~ *Except as otherwise provided in subsection 7, adjusted* on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report of the immediately preceding year. The adjusted rate must be rounded to the nearest one-quarter of 1 percent.

7. The total contribution rate for employers must not be adjusted in accordance with the provisions of paragraph (b) of subsection 6 if ~~[the]~~ *:*

(a) The existing rate *is lower than the actuarially determined rate but* is within one-half of 1 percent of the actuarially determined rate.

(b) The existing rate is higher than the actuarially determined rate but is within 2 percent of the actuarially determined rate. If the existing rate is more than 2 percent higher than the actuarially determined rate, the existing rate must be reduced by the amount by which it exceeds 2 percent above the actuarially determined rate.

Sec. 4.7. NRS 286.450 is hereby amended to read as follows:

286.450 1. The employer contribution rate must be:

(a) The matching contribution rate for employees and employers that is actuarially determined for police officers and firefighters and for regular members, depending upon the retirement fund in which the member is participating.

(b) ~~[Adjusted]~~ *Except as otherwise provided in subsection 2, adjusted* on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report of the immediately preceding year. The adjusted rate must be rounded to the nearest one-quarter of 1 percent.

2. The employer's portion of the matching contribution rate for employees and employers must not be adjusted in accordance with the provisions of paragraph (b) of subsection 1 if ~~[the]~~ *:*

(a) The existing rate is *lower than the actuarially determined rate but is* within one-quarter of 1 percent of the actuarially determined rate.

(b) The existing rate is higher than the actuarially determined rate but is within 1 percent of the actuarially determined rate. If the existing rate is more than 1 percent higher than the actuarially determined rate, the existing rate must be reduced by the amount by which it exceeds 1 percent above the actuarially determined rate.

8. For the purposes of adjusting salary increases and cost-of-living increases or of salary reduction, the total contribution must be equally divided between employer and employee.

9. Public employers other than the State of Nevada shall pay the entire employee contribution for those employees who contribute to the Police and Firefighters' Retirement Fund on and after July 1, 1981.

Sec. 5. NRS 286.460 is hereby amended to read as follows:

286.460 1. Each participating public employer which pays compensation to its officers or employees in whole or in part from money received from sources other than money appropriated from the State General Fund, shall pay public employer contributions, or the proper portion thereof, to the System from the money of the department, board, commission or agency.

2. Public employer contributions for compensation paid from the State General Fund must be paid directly by each department, board, commission or other agency concerned, and allowance therefor must be made in the appropriation made for each department, board, commission or other state agency.

3. All participating public employers that are required to make payments pursuant to this section shall file payroll reports not later than 15 days after the end of the reporting period, together with the remittance of the amount due to the System. The 15-day limit is extended 1 working day for each legal

holiday that falls within the 15-day period and is officially recognized by the public employer.

4. Payroll reports must contain accurate payroll information and be filed in a form prescribed by the Board. If the payroll reports are not filed or the amounts due are not remitted within the time provided, a penalty on the unpaid balance due must be assessed at a rate of 4 percent more than the prime rate of interest as published in the Wall Street Journal (Western Edition) for the first date the payment or report becomes delinquent.

5. A notice of the penalty assessed must be mailed by certified mail to the chief administrator of the delinquent public employer. The public employer shall pay the assessment within 90 days after receipt of the notice or an additional penalty of 1 percent of the assessment per month must be imposed until paid. Refusal or failure by the public employer to pay the assessment within 12 months after receipt is a misdemeanor on the part of the chief administrator of the delinquent public employer. The Retirement Board may accept, no later than 30 days after the notice is received, an appeal from a public employer for waiver or reduction of a penalty assessed on account of extenuating circumstances and make any adjustment it deems necessary.

6. Except as otherwise required as a result of NRS 286.537, upon notification that a current employee was not properly enrolled in the System by the public employer, the public employer shall pay within 90 days all the employee and employer contributions and the interest that is due as computed by the System from the first day the employee was eligible for membership. The public employer is entitled to recover from the employee the employee contributions and interest thereon.

7. *If an employer reports wages pursuant to this section that are ineligible pursuant to the definition of compensation under NRS 286.025, the public employer is responsible to the employee for the impact to the member's benefit, if any, that results from the erroneously reported wages.*

8. As used in this section, "reporting period" means the calendar month for which members' compensation and service credits are reported and certified by participating public employers. Compensation paid during each month must be reported separately, and retroactive salary increases must be identified separately for each month to which they apply.

Sec. 6. NRS 286.510 is hereby amended to read as follows:

286.510 1. Except as otherwise provided in subsections 2 and 3, a member of the System *:*

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at any age if he has at least 30 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 62 if

he has at least 10 years of service and at any age if he has at least 30 years of service.

2. A police officer or firefighter *:*

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 55 if he has at least 10 years of service, at age 50 if he has at least 20 years of service and at any age if he has at least 25 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at age ~~[55]~~ 50 if he has at least 20 years of service.

➥ Only service performed in a position as a police officer or firefighter, established as such by statute or regulation, service performed pursuant to subsection 3 and credit for military service, may be counted toward eligibility for retirement pursuant to this subsection.

3. Except as otherwise provided in subsection 4, a police officer or firefighter who has at least 5 years of service as a police officer or firefighter and is otherwise eligible to apply for disability retirement pursuant to NRS 286.620 because of an injury arising out of and in the course of his employment remains eligible for retirement pursuant to subsection 2 if:

(a) He applies to the Board for disability retirement and the Board approves his application;

(b) In lieu of a disability retirement allowance, he accepts another position with the public employer with which he was employed when he became disabled as soon as practicable but not later than 90 days after the Board approves his application for disability retirement;

(c) He remains continuously employed by that public employer until he becomes eligible for retirement pursuant to subsection 2; and

(d) After he accepts a position pursuant to paragraph (b), his contributions are paid at the rate that is actuarially determined for police officers and firefighters until he becomes eligible for retirement pursuant to subsection 2.

4. If a police officer or firefighter who accepted another position with the public employer with which he was employed when he became disabled pursuant to subsection 3 ceases to work for that public employer before becoming eligible to retire pursuant to subsection 2, he may begin to receive a disability retirement allowance without further approval by the Board by notifying the Board on a form prescribed by the Board.

5. Eligibility for retirement, as provided in this section, does not require the member to have been a participant in the System at the beginning of his credited service.

6. Any member who has the years of creditable service necessary to retire but has not attained the required age, if any, may retire at any age with a benefit actuarially reduced to the required retirement age. Except as otherwise required as a result of NRS 286.537, a retirement benefit pursuant to this subsection must be reduced *:*

(a) If the member has an effective date of membership before January 1, 2010, by 4 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.33 percent for each additional month that the member is under the appropriate retirement age.

(b) If the member has an effective date of membership on or after January 1, 2010, by 6 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.5 percent for each additional month that the member is under the appropriate retirement age.

➥ Any option selected pursuant to this subsection must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.

Sec. 7. NRS 286.551 is hereby amended to read as follows:

286.551 Except as otherwise required as a result of NRS 286.535 or 286.537:

1. Except as otherwise provided in ~~[this]~~ subsection ~~[,]~~ *2:*

(a) For a member who has an effective date of membership before January 1, 2010, a monthly service retirement allowance must be determined by multiplying a member's average compensation by 2.5 percent for each year of service earned before July 1, 2001, and 2.67 percent for each year of service earned on or after July 1, 2001 . ~~[, except that a]~~

(b) For a member who has an effective date of membership on or after January 1, 2010, a monthly service retirement allowance must be determined by multiplying a member's average compensation by 2.5 percent for each year of service earned.

2. A member:

(a) Who has an effective date of membership on or after July 1, 1985, is entitled to a benefit of not more than 75 percent of his average compensation with his eligibility for service credit ceasing at 30 years of service.

(b) Who has an effective date of membership before July 1, 1985, and retires on or after July 1, 1977, is entitled to a benefit of not more than 90 percent of his average compensation with his eligibility for service credit ceasing at 36 years of service.

➥ In no case may the service retirement allowance determined pursuant to this section be less than the allowance to which the retired employee would have been entitled pursuant to the provisions of this section which were in effect on the day before July 3, 1991.

~~[2.]~~ *3.* For the purposes of this section, except as otherwise provided in ~~[subsection 3,]~~ *subsections 4, 5 and 6,* "average compensation" means the average of a member's 36 consecutive months of highest compensation as certified by the public employer.

~~[3.]~~ *4. Except as otherwise provided in subsection 5, for an employee who becomes a member of the System on or after January 1, 2010, the*

following limits must be observed when calculating the member's average compensation ~~*[.]*~~ *based on a 60-month period that commences 24 months immediately preceding the 36 consecutive months of highest compensation:*

(a) The compensation for the 13th through the 24th months may not exceed the actual compensation amount for the 1st through the 12th months by more than 10 percent; ~~*[and]*~~

(b) The compensation for the 25th through the 36th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (a); or

(2) The actual compensation amount for the 13th through the 24th months ~~*[.]*~~ *;*

(c) The compensation for the 37th through the 48th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (b); or

(2) The actual compensation amount for the 25th through the 36th months; and

(d) The compensation for the 49th through the 60th months may not exceed by more than 10 percent the lesser of:

(1) The maximum average compensation amount allowed pursuant to paragraph (c); or

(2) The actual compensation amount for the 37th through the 48th months.

5. Compensation attributable to a promotion and assignment-related compensation must be excluded when calculating the limits pursuant to subsection 4.

6. The average compensation of a member who has a break in service or partial months of compensation, or both, as a result of service as a Legislator during a regular or special session of the Nevada Legislature must be calculated on the basis of the average of his 36 consecutive months of highest compensation as certified by his public employer excluding each month during any part of which the Legislature was in session. This subsection does not affect the computation of years of service.

~~[4.]~~ *7.* The retirement allowance for a regular part-time employee must be computed from the salary which he would have received as a full-time employee if it results in greater benefits for the employee. A regular part-time employee is a person who works half-time or more, but less than full-time:

(a) According to the regular schedule established by the employer for his position; and

(b) Pursuant to an established agreement between the employer and the employee.

Sec. 8. ~~[NRS 286.667 is hereby amended to read as follows:~~

~~286.667 1. A retired employee whose service or disability retirement allowance is payable from the Police and Firefighters' Retirement Fund is entitled to receive his allowance without modification.~~

~~2. Upon the death of such a person, a person who was his spouse at the time of his retirement is entitled, upon attaining the age of 50 years, to receive a benefit equal to 50 percent of the allowance to which the retired employee was entitled.~~

~~3. This section does not apply to a person who:~~

~~(a) Begins receiving a service or disability retirement allowance or a benefit from the Police and Firefighters' Retirement Fund before July 1, 1981 ,~~[.]

~~(b) At the time of his retirement, elects one of the alternatives to an unmodified retirement allowance~~ [.] ~~; or~~

~~*(c) Who has an effective date of membership on or after January 1, 2010.*~~

~~4. Service performed after July 1, 1981, in positions other than as a police officer or firefighter, except military service, may not be credited toward the benefit conferred by this section. A police officer or firefighter who has performed service which is not creditable toward this benefit may elect to:~~

~~(a) Select a retirement option other than one permitted by this section;~~

~~(b) Receive the benefit conferred by this section with a spouse's benefit reduced by a proportion equal to that which the service which is not creditable bears to his total service; or~~

~~(c) Purchase the additional spouse's benefit at the time he retires by paying the full actuarial cost as computed for his situation by the actuary of the System.~~

~~5. The entire cost of the benefit conferred by this section must be paid by the employee. Each employer must adjust the salaries of its employees who are eligible for the benefit to offset its cost to the employer. Employers who adjust salaries pursuant to this subsection do not by doing so violate any collective bargaining agreement or other contract.~~] *(Deleted by amendment.)*

Sec. 9. *Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Program, if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of his intent to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in subparagraph (2) of paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➥ *The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of his intent to reinstate the insurance.*

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. Reinstatement of insurance pursuant to subsection 1 excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 10. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not

provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for ~~[retired]~~ persons who ~~[continue coverage]~~ *:*

(1) Were initially hired before January 1, 2010, and who retire and are covered under the ~~[Public Employees' Benefits]~~ Program pursuant to subsection 1 or who subsequently reinstate coverage under the ~~[Public Employees' Benefits]~~ Program pursuant to ~~[NRS 287.0475,]~~ *section 9 of this act; or*

(2) Are initially hired on or after January 1, 2010, and who retire with:

(I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or

(II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public

Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education,

➥ as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Public Employees' Benefits Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 11. *NRS 287.046 is hereby amended to read as follows:*

287.046 1. Except as otherwise provided in subsection 6, any active state officer or employee who elects to participate in the Program may participate, and the participating state agency that employs the officer or employee shall pay the State's share of the cost of the premiums or contributions for the Program from money appropriated or authorized as provided in NRS 287.044. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of a premium or contribution for health insurance must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid by the participating state agency that employs the employee.

2. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~[and who elect to participate in the Program.]~~ *before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 4.*

3. The money ~~[so]~~ assessed *pursuant to subsection 2* must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~[state]~~ *such* retirees. Except as otherwise provided in subsection ~~[3,]~~ *5,* the portion to be paid to the Program from the Retirees' Fund on behalf of *such* persons ~~[who have retired with state service and who elect to participate in the Program]~~ must be equal to a portion of the cost for each retiree and his dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

4. Adjustments to the portion paid by the Retirees' Fund must be as follows:

(a) For persons who retire ~~[from the State]~~ on or after January 1, 1994, ~~[adjustments to the portion paid by the Retirees' Fund must be as follows:~~

~~(a)]~~ *with state service:*

(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~[(b)]~~ *(2)* For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~[3.]~~ *(b) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have participated in the Program on a continuous basis since their retirement from such employment, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.*

(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do not have at least 15 years of service credit to qualify under paragraph (b) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and who have participated in the Program on a continuous basis since their retirement from such employment:

(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

5. If the amount calculated pursuant to subsection ~~[2]~~ *4* exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~[4.]~~ *6.* For the purposes of subsection 2:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of state service.

~~[5.]~~ *7.* The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and his dependents to the retired participant and to his dependents who elect to continue coverage under the Program after his death.

~~[6.]~~ *8.* A Senator or Assemblyman who elects to participate in the Program shall pay the entire premium or contribution for his insurance.

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A public officer or employee who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Program, if the last public employer of the retired officer or employee was the State of Nevada or if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice of his intent to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) ~~[Paying]~~ *Except as otherwise provided in NRS 287.046, paying* any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

➥ The last public employer shall give the insurer notice of the reinstatement no later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of his intent to reinstate the insurance.

3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

4. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 13. *Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:*

Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved by the governing body of the local government employer at a public hearing. The chief executive officer of the local government shall report to the local government the fiscal impact of the agreement.

Sec. 14. *NRS 288.200 is hereby amended to read as follows:*

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) *The parties have failed to reach an agreement after at least six meetings of negotiations; and*

(b) The parties have participated in mediation and by April 1, have not reached agreement*,* ~~[; or~~

~~(b) The bargaining unit represented by the employee organization contains fewer than 30 persons,]~~

➥ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for his findings and recommendations. His findings and recommendations are not binding on the parties except as provided in subsections 5, 6 and ~~[9.]~~ *11.* The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder *or a panel of neutral arbitrators* within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection ~~[9]~~ *11* are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection ~~[8,]~~ *10,* any fact finder, whether his recommendations are to be binding or not, shall base his recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, *, and subject to the provisions of paragraph (c),* he shall *consider, to the extent appropriate, compensation of other government employees, both in and out of the State and* use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and he shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must

consider the ability to pay over the life of the contract being negotiated or arbitrated.

➥ The fact finder's report must contain the facts upon which he based his determination of financial ability to grant monetary benefits and his recommendations or award.

8. *Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of Chapter 241 of NRS. The meeting must include a discussion of:*

(a) The issues of the parties submitted pursuant to subsection 3;

(b) The report of findings and recommendations of the fact finder; and

(c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➥ *The fact finder must not be asked to discuss the decision during the meeting.*

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation, an analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

➥ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

~~[9.]~~ *11.* The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

➥ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

Sec. 15. NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section:

(a) "Firefighters" means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after he is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

(a) The parties to the dispute; or

(b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination of the financial ability of a local government employer must be based on ~~[all]~~ :

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➥ *Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, he shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.*

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200, and shall report his decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving his reason for accepting the final offer that is the basis of his award; and

(b) Specifying his estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➥ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

Sec. 16. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after he is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on ~~[all]~~ *:*

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➥ *Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, he shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.*

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render his decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report his decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving his reason for accepting the final offer that is the basis of his award; and

(b) Specifying his estimate of the total cost of the award.

10. *Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:*

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➥ *The arbitrator must not be asked to discuss the decision during the meeting.*

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation, an analysis of the impact of the decision on compensation and

reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

~~[Sec. 9.]~~ *Sec. 17. 1.* This ~~[act becomes]~~ *section and section 5 of this act become effective upon passage and approval.*

2. Sections 1 to 4.7, inclusive, and 6 to 16, inclusive, of this act become effective on January 1, 2010.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Hardy and Carlton.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

This is the long-awaited and much-debated reform bill to PERS and PEBP and some local-government transparency reforms. The Senate Committee on Finance has reviewed the bill.

Sections 1 and 11 deal with the Public Employee Benefits Program, making significant changes to the years of service required for new employees starting January 1, 2010. There will be 15 years of service required to be eligible for the Health Benefits Program under the Public Employees Retirement System. In sections 1.8, 2, 3, 4, 5 and 6, as well as 7.1 and 7.4 of the bill, it makes significant changes to the retirement benefits for new employees starting on or after January 1, 2010. It changes a number of key provisions including years of service and age requirements as well as the multiplier from 2.6 to 2.5 and makes other significant changes as far as provisions dealing with callback and some end-of-service in the 5 years and what can be counted toward retirement.

Some of the local government reform provisions are in sections 13, 14, 15 and 16, and they address some of the transparency issues once contracts are negotiated that provide for public review and public-comment period by local bodies prior to adoption of those contracts.

SENATOR HARDY:

I rise in support of the amendment. It has been said that this has been the most contentious bill during this Session. In some respects, it was, but it demonstrated how well this body can work together.

Our goals were not that different. Those goals were to begin the process of saving PERS and PEBP. We had some disagreement on how to do that, but we have come up with a process that will work. Our goal was to provide some transparency to the Chapter 288 process. We have done that. We do not want to focus on the negativity, the controversy or the debate over this. We need to focus on the fact that we did a good job for the people of this State.

With regard to transparency and public records, we have assured that the public will understand what happened relative to collective-bargaining agreements. Documents will be available to the public. They will be able to understand the decision process. The chief executive officer of the local government will report the fiscal impact of these things to the public and will be required to consider the long-term impact. We were able to place language in this that requires the arbitrator in these issues to consider what other local governments and what the state government pays when considering all of these facts. They will be required to consider the complete ability of the local government to pay over the lifetime of the contract.

We have helped to ensure that these programs will be there for a long time to come. As the Majority Leader indicated in committee, we inherited these challenges. We can look forward with pride that we responded to these challenges in this Legislative Session.

SENATOR CARLTON:

I rise with some concerns. There have been moments in my legislative career when I have looked at a bill and have known that this is not that bad and I could go ahead and vote for this, but there is that little, gnawing voice at the back of my mind. I have stopped to think about the things I was taught and the responsibilities that I bear; and as I look at this, I see myself not as a steward of the present but a guardian of the future. I was taught to raise up the next generation. I do not think I have done a very good job of guarding the future as far as this legislation goes. I know it is needed. The people who worked on it did a good job. It was contentious. However, something tells me this just is not right. I will not support this bill.

Senator Woodhouse disclosed that she is a retiree with the Public Employees Retirement System; however, she currently does not receive a benefit from PEBP.

Senator Raggio disclosed that he is a member of PERS for his years of service as a county elected official, and that he participates in the Public Employees Benefit Program, paying all of his own premiums.

Senator Hardy disclosed that he did not believe his independence of judgment was impacted, and therefore would be voting on the bill.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that Senate Bill No. 427 be declared an emergency measure under the Constitution and that reprinting be dispensed with, and the Secretary be authorized to insert Amendment No. 968 adopted by the Senate, and the bill be immediately placed on the General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 427.

Bill read third time.

Roll call on Senate Bill No. 427:

YEAS—19.

NAYS—Carlton, Coffin—2.

Senate Bill No. 427 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 403.

The following Assembly amendment was read:

Amendment No. 955.

"SUMMARY—Makes *various* appropriations ~~[to restore the balances in the Stale Claims Account, Emergency Account and Reserve for Statutory Contingency Account.]~~ *from the State General Fund.* (BDR S-1264)"

"AN ACT making appropriations to restore ~~[the]~~ *certain fund* balances ~~[in the Stale Claims Account, Emergency Account and Reserve for Statutory Contingency Account;]~~ *and for certain costs related to changes in various taxes;* and providing other matters properly relating thereto."

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the State General Fund to the:

1. Stale Claims Account created by NRS 353.097 the sum of $5,500,000 to restore the balance in the Account.

2. Emergency Account created by NRS 353.263 the sum of $150,000 to restore the balance in the Account.

3. Reserve for Statutory Contingency Account created by NRS 353.264 the sum of $3,000,000 to restore the balance in the Account.

4. Contingency Fund created by NRS 353.266 the sum of $7,500,000 to restore the balance in the fund attributable to the State General Fund.

Sec. 2. There is hereby appropriated from the State General Fund to the:

1. Department of Motor Vehicles the sum of $24,000 for the costs of implementing changes to the provisions governing the governmental services tax.

2. Department of Taxation the sum of $95,000 for the costs of implementing changes to the provisions governing the local school support tax.

3. Interim Finance Committee the sum of $527,850 for allocation to the Department of Taxation for the costs of additional duties and modifications necessary to implement laws revised during this session.

Sec. 3. Any remaining balance of the appropriations made by section 2 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

~~[Sec. 2.]~~ *Sec. 4. 1.* This *section and sections 2 and 3 of this act become effective upon passage and approval.*

2. Section 1 of this act becomes effective on July 1, 2009.

Senator Mathews moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 403.

Remarks by Senator Mathews.

Senator Mathews requested that her remarks be entered in the Journal.

The amendment creates a Contingency Fund of $7.5 million to restore the balance in the Fund attributed to the State General Fund, which also pays to the Department of Motor Vehicles and the Department of Taxation.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Copening, Carlton and Rhoads as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 269.

Senator Horsford moved that the Senate recess until 9:15 p.m.

Motion carried.

Senate in recess at 8:40 p.m.

SENATE IN SESSION

At 9:51 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved to consider the Orders of Business Nos. 5, 13, 14 and 15 in the order stated.

Motion carried

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 195 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 234 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 363 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 378 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 415 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 429 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 431 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am returning Senate Bill No. 433 to the 75th Session of the Nevada Legislature accompanied by my letters of objection

Sincerely,
JIM GIBBONS
Governor of Nevada

GENERAL FILE AND THIRD READING

Senate Bill No. 264.

Bill read third time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 940.

"SUMMARY—Directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments ~~.~~ *and requires the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations.* (BDR S-81)"

"AN ACT relating to local governmental administration; directing the Legislative Commission to conduct an interim study of the powers delegated to local governments; *requiring the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations; providing for the administration and specifying the duties of the Interim Technical Advisory Committee;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 8 of this* bill directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments, including the feasibility of increasing the powers of local governments related to taxation.

Section 9 of this bill requires the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations, composed of six representatives of local governments and three representatives of state agencies. The purpose of the committee is to foster communication and cooperation among the State Government and local governments. The Committee is charged with serving as a forum for discussion among governments, engaging in activities and conducting studies on issues relating to state and local governments, and reporting to the interim committee appointed pursuant to section 8 of this bill.

WHEREAS, In 1868, Judge John F. Dillon of the Iowa Supreme Court established in Merriam v. Moody's Executors, 25 Iowa 163 (1868), a common law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments; and

WHEREAS, Under Dillon's Rule, a local government possesses and can exercise only those powers which are: (1) granted in express words; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared objects and

purposes of the local government and which are not simply convenient, but indispensable; and

WHEREAS, The Nevada Supreme Court has cited Dillon's Rule in several opinions; and

WHEREAS, Allowing greater autonomy for local governments in this State may promote more efficient use of limited governmental resources; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. The Legislative Commission shall appoint an interim committee to conduct a study of the powers of local governments in this State. The study must include, without limitation ~~[, an]~~ *:*

(a) An examination of:

~~[(a)]~~ *(1)* The structure, formation, function and powers of local governments in this State;

~~[(b)]~~ *(2)* The potential fiscal impact in this State resulting from abolishing Dillon's Rule;

~~[(c)]~~ *(3)* The feasibility of increasing the powers of local governments in this State; and

~~[(d)]~~ *(4)* The experiences of states that have rejected Dillon's Rule ~~[.]~~ *; and*

(b) The consideration of any recommendations submitted to the interim committee pursuant to section 9 of this act.

2. The interim committee must be composed of six Legislators, one of whom must be appointed as Chairman of the committee, as follows:

(a) The Chairman of the Senate Standing Committee on Government Affairs;

(b) The Chairman of the Assembly Standing Committee on Government Affairs;

(c) One member appointed by the Majority Leader of the Senate;

(d) One member appointed by the Minority Leader of the Senate;

(e) One member appointed by the Speaker of the Assembly; and

(f) One member appointed by the Minority Leader of the Assembly.

3. To assist with the study, the Chairman of the interim committee may appoint a technical advisory committee consisting of representatives of local governments in this State, who serve without salary, but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. Any recommended legislation proposed by the interim committee must be approved by a majority of members of the Senate and a majority of the members of the Assembly appointed to the Committee.

5. On or before February 1, 2011, the Legislative Commission shall submit a report of the results of the study conducted pursuant to this section and any recommendation for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 9. 1. The Legislative Commission shall, as soon as practicable after July 1, 2009, appoint an Interim Technical Advisory Committee for Intergovernmental Relations, consisting of:

(a) Six representative of local governments in this State; and

(b) Three representatives of agencies of this State.

2. The purpose of the Interim Technical Advisory Committee is to foster effective communication, cooperation and partnerships among the State Government and local governments to improve the provision of governmental services to the people of this State.

3. The Interim Technical Advisory Committee shall elect from among its membership and by majority vote a Chairman and Vice Chairman.

4. The Interim Technical Advisory Committee shall meet at least once every 3 months and at such additional times as may be deemed necessary by the Chairman. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the committee.

5. Each member of the Interim Technical Advisory Committee who is an officer or employee of the State or a local government must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Committee and perform any work necessary to accomplish the work of the Committee in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Committee to make up the time he is absent from work to fulfill his obligations as a member, nor shall it require the member to take annual vacation or compensatory time for the absence. Such a member shall serve on the Committee without additional compensation, except that while he is engaged in the business of the Committee, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency or local government which employs him.

6. The Nevada Association of Counties and the Nevada League of Cities and Municipalities shall provide the Interim Technical Advisory Committee with administrative support.

7. The Interim Technical Advisory Committee shall:

(a) Serve as a forum for the discussion and resolution of intergovernmental problems among the State Government and local governments;

(b) Engage in activities and conduct studies relating to, without limitation:

(1) The structure of local governments;

(2) The functions and powers, including, without limitation, fiscal powers, of local governments;

(3) Relationships among the State Government and local governments;

(4) The allocation of state and local resources; and

(5) Any appropriate legislation to be recommended to the interim committee appointed pursuant to section 8 of this act; and

(c) On or before June 1, 2010, submit to the interim committee appointed pursuant to section 8 of this act:

(1) A recommendation regarding the need for a permanent Nevada Advisory Commission on Intergovernmental Relations; and

(2) Any other recommendations for appropriate legislation resulting from any reviews or studies conducted by the Interim Technical Advisory Committee.

8. As used in this section:

(a) "Agency" has the meaning ascribed to it in NRS 233B.031.

(b) "Local government" has the meaning ascribed to it in NRS 354.474.

~~[Sec. 9.]~~ *Sec. 10. 1.* This act becomes effective on July 1, 2009.

2. Section 9 of this act expires by limitation on June 30, 2011.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Amendment No. 940 revises Senate Bill No. 264 to provide for an additional technical advisory committee concerning intergovernmental relations.

The technical advisory committee consists of six local government representatives and three members from State agencies as appointed by the Legislative Commission. Members serve without salary but are entitled to receive the per diem allowance and travel expenses provided by their agency for state officers and employees generally.

The purpose of the technical advisory committee is to foster communication and cooperation among the state government and local governments. The technical advisory committee will serve as a forum for discussion among governments, engaging in activities and conducting studies on issues relating to state and local governments and reporting to the full committee.

The technical advisory committee shall make a recommendation to the full committee concerning the need for a permanent Advisory Commission on Intergovernmental Relations, as specified in Senate Bill No. 375 of the 2009 Legislative Session.

The technical advisory committee shall meet during the interim period specified for the full committee and will receive administrative support from the Nevada League of Cities and the Nevada Association of Counties. It may recommend legislation to the interim committee for inclusion in its deliberations.

This amendment is going on one of the Senate's designated interim studies. I urge your support.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 152.

The following Assembly amendments were read:

Amendment No. 778.

"SUMMARY—Enacts the Green Jobs Initiative. (BDR 58-172)"

"AN ACT relating to energy; providing for the training of persons to perform jobs which promote energy efficiency; requiring governmental entities to perform certain functions to promote energy efficiency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for the use of the incentives contained in the recently signed federal American Recovery and Reinvestment Act of 2009 to provide job training, the promotion of energy efficiency and the promotion of the use of renewable energy in Nevada. Sections 9 and 10 of this bill seek to take advantage of those incentives by providing specific training to persons in this State, establishing projects that will require the skills for which those persons are trained and providing for the employment of those persons. Section 9 requires the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to establish contractual relationships with nonprofit collaboratives to provide training in the fields of energy efficiency and renewable energy, including training in the areas of weatherization, energy retrofit applications and performing energy audits. Within the limits of available money, the collaboratives will carry out programs for job training and provide apprenticeship programs in specific energy-related fields. Within the limits of money available, the Housing Division is required to contract with the nonprofit collaboratives, governmental entities, community action agencies and other nonprofit corporations to identify neighborhoods that will qualify for funding for residential weatherization projects and award contracts for projects to promote energy efficiency through residential weatherization. Such contracts awarded must provide for employing the persons trained by the nonprofit collaborative for this purpose, paying those employees prevailing wages and offering the employees and their dependents health care insurance.

Section 10 of this bill requires the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada, within 90 days after the effective date of this bill, to each establish projects to weatherize and retrofit public buildings, facilities and structures in this State, including without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Section 10 further sets forth criteria for prioritizing those projects. Those entities are further required to enter into contracts for the projects as soon as practicable. Such contracts are required to provide that employees of the contractors and subcontractors on the project be paid prevailing wages, that the contractor or subcontractor employ a certain

number of employees trained by a nonprofit cooperative and pay them prevailing wages and that the contractor offer employees on the project and their dependents health care insurance.

Section 11 of this bill provides that within the limits of money available, the State Public Works Board and the Division of State Parks of the State Department of Conservation and Natural Resources shall conduct studies to determine the feasibility of carrying out certain projects for providing alternative sources of energy in this State.

Section 12 of this bill requires the Labor Commissioner to adopt the job classifications and wage rates established by the Federal Government for certain jobs relating to residential weatherization and to enforce those job classifications and wage rates in the same manner that he enforces the labor laws and regulations of this State generally.

Section 13 of this bill requires the Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to report to the Interim Finance Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this bill pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

WHEREAS, The unemployment rate in the State of Nevada is currently 9.1 percent and is expected to reach 11.4 percent sometime during 2009; and

WHEREAS, Many of Nevada's 128,000 unemployed residents have lost jobs in the construction and service sectors as the construction industry has faltered as a result of the mortgage foreclosure crisis and as the service industry, including gaming and tourism, has faltered as a result of the curtailment of discretionary spending on a national level; and

WHEREAS, One of the most effective methods of returning unemployed Nevadans to work is to create "green jobs" by developing new industries in this State in a manner that takes advantage of incentives offered by the Federal Government for job training, the promotion of energy efficiency and the promotion of the use of renewable energy; and

WHEREAS, An immediate step which may be taken to put Nevadans back to work is to coordinate job training with programs for weatherization and energy efficiency that are part of the recently enacted federal economic stimulus package; and

WHEREAS, In such a manner, unemployed Nevadans may learn new skills in fields such as energy auditing and the installation of energy efficient equipment and improvements, and then go to work performing such tasks as weatherizing homes, retrofitting public buildings, helping lower-income Nevadans to save on their utility bills, and reducing energy costs for schools, government buildings and other public facilities; and

WHEREAS, The Green Jobs Initiative can be accomplished through a public-private partnership that combines the resources of state agencies, local housing authorities, institutions of higher education, joint labor-management

partnerships, apprenticeship programs and private contractors under the "umbrella" of a nonprofit collaborative; and

WHEREAS The Green Jobs Initiative would function to establish programs to provide job training and outreach for the weatherization and retrofitting of buildings and facilities in northern Nevada, southern Nevada and rural Nevada; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *Sections 2 to 10, inclusive, of this act may be cited as the Green Jobs Initiative.*

Sec. 3. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Department" means the Department of Employment, Training and Rehabilitation.*

Sec. 5. *"Division" means the Housing Division of the Department of Business and Industry.*

Sec. 6. *1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waste heat;

(f) Waterpower; and

(g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 7. *"Retrofitting" means the alteration, improvement, modification, remodeling or renovation of a building, facility, residence or structure to make that building, facility, residence or structure more energy efficient.*

Sec. 8. *"Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.*

Sec. 9. *1. The Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall establish contractual relationships with one or more nonprofit collaboratives to carry out the State's mission of creating new jobs in the fields of energy efficiency and renewable energy by combining job training with weatherization, energy retrofit applications or the development of renewable energy plants.*

2. To qualify as a nonprofit collaborative for the purposes of this section

~~[~~

~~(a) A]~~ , *a nonprofit entity* ~~[must]~~ :

(a) Must *enter into a written agreement relating to job training and career development activities with* : ~~[one or more of the following:]~~

(1) A labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS; and

(2) A community college or another institution of higher education; ~~[or~~

~~(3) A trade association which has an accredited job skills training program; and~~

~~(b) The nonprofit entity must]~~ and

(b) Must *conduct or have the ability to conduct training programs in at least one of the three geographic regions of this State, including southern Nevada, northern Nevada and rural Nevada.*

➥ *Such a nonprofit entity may also enter into a written agreement relating to job training and career development activities with a trade association which has an accredited job skills training program.*

3. Within the limits of money available to the Department for this purpose, the Department shall contract with one or more qualified nonprofit collaboratives to:

(a) Carry out programs for job training in fields relating to energy efficiency and the use of renewable energy.

(b) In concert with a labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS, develop apprenticeship programs to train laborers in skills related to:

(1) The implementation of energy efficiency measures.

(2) The use of renewable energy.

(3) Performing audits of the energy efficiency of buildings, facilities, residences and structures.

(4) The weatherization of buildings, facilities, residences and structures.

(5) The retrofitting of buildings, facilities, residences and structures.

(6) The construction and operation of centralized renewable energy plants.

(7) The manufacturing of components relating to work performed pursuant to subparagraphs (1) to (6), inclusive.

4. The job training described in subsection 3 must be sufficiently detailed to allow workers, as applicable, to perform:

(a) The services set forth in NRS 702.270.

(b) The services set forth in NRS 618.910 to 618.936, inclusive.

(c) Such other vocational or professional services, or both, as the Department deems appropriate.

5. Funding provided for the job training described in subsection 3:

(a) Must, to the extent money is available for the purpose, include the cost of tuition and supplies.

(b) May include a cost-of-living stipend which may or may not be in addition to any available unemployment compensation.

6. Within the limits of money available to the Division for the purpose, the Division shall contract with one or more governmental entities, community action agencies or nonprofit organizations, including, without limitation, qualified nonprofit collaboratives, to:

(a) Identify, in different regions of the State, neighborhoods that will qualify for funding for residential weatherization projects pursuant to federal programs focusing on residential weatherization; and

(b) Issue requests for proposals for contractors and award contracts for projects to promote energy efficiency through weatherization. Any such requests for proposals and contracts must include, without limitation:

(1) Provisions stipulating that all employees of the outside contractors who work on the project must be paid prevailing wages;

(2) Provisions requiring that each outside contractor ~~[employ]~~ :

(I) Employ on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent of the total workforce the contractor employs on the project; or

(II) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor, that the contractor cannot reasonably comply with the provisions of sub-subparagraph (I) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;

(3) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(4) A component that requires each contractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

7. The Department and the Division:

(a) Shall apply for and accept any grant, appropriation, allocation or other money available pursuant to:

(1) The Green Jobs Act of 2007, 29 U.S.C. § 2916(e); and

(2) The American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(b) May apply for and accept any other available gift, grant, appropriation or donation from any public or private source,

➥ to assist the Department and the Division in carrying out the provisions of this section.

8. The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section.

9. As used in this section, "community action agencies" means private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which are authorized to administer money received from federal, state, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Sec. 10. *1. The State Public Works Board shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:*

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with

one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project ~~[employ]~~ :

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of section 9 of this act must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 11. Within limits of money available for the purpose:

1. The State Public Works Board shall conduct a study to determine the feasibility of using geothermal resources to provide heating to all or a portion of the Lovelock Correctional Center.

2. The Division of State Parks of the State Department of Conservation and Natural Resources shall conduct a study to determine the feasibility of:

(a) Constructing a hydroelectric generation unit at the existing dam on the South Fork Reservoir near Elko, Nevada.

(b) Constructing wind turbines in the vicinity of the South Fork Reservoir near Elko, Nevada.

Sec. 12. For the purposes of the State in carrying out the provisions of section 9 of this act governing residential weatherization in compliance with section 1606 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and notwithstanding any other provision of state law *:* ~~[, the Labor Commissioner shall:]~~

1. ~~[On]~~ *The Labor Commissioner shall, on* the effective date of this act, for each locality in this State for which the Labor Commissioner has not already established job classifications and wage rates pursuant to state law, adopt the job classifications and wage rates relating to residential weatherization established for that locality pursuant to the most current provisions of federal law or, if such job classifications and wage rates have not been established for that locality, the job classifications and wage rates for the closest locality, whether or not in Nevada, for which such job classifications and wage rates have been established, which are necessary to carry out the provisions of section 9 of this act; ~~[and]~~

2. ~~[Enforce]~~ *The Labor Commissioner shall enforce* the job classifications and wage rates adopted pursuant to subsection 1 in the same manner as the Labor Commissioner is authorized to enforce the labor laws and regulations of this State generally ~~[.]~~ *; and*

3. The provisions of NRS 233B.040 to 233B.120, inclusive, do not apply to the adoption by the Labor Commissioner of the job classifications and wage rates required pursuant to subsection 1.

Sec. 13. The Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall report to the Interim Finance Committee as required by the Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this act pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Sec. 14. This act becomes effective upon passage and approval.

Amendment No. 953.

"SUMMARY—Enacts the Green Jobs Initiative. (BDR 58-172)"

"AN ACT relating to energy; providing for the training of persons to perform jobs which promote energy efficiency; requiring governmental entities to perform certain functions to promote energy efficiency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for the use of the incentives contained in the recently signed federal American Recovery and Reinvestment Act of 2009 to provide job training, the promotion of energy efficiency and the promotion of the use of renewable energy in Nevada. Sections 9 and 10 of this bill seek to take advantage of those incentives by providing specific training to persons in this State, establishing projects that will require the skills for which those persons are trained and providing for the employment of those persons. Section 9 requires the Department of Employment, Training and Rehabilitation and the

Housing Division of the Department of Business and Industry to establish contractual relationships with nonprofit collaboratives to provide training in the fields of energy efficiency and renewable energy, including training in the areas of weatherization, energy retrofit applications and performing energy audits. Within the limits of available money, the collaboratives will carry out programs for job training and provide apprenticeship programs in specific energy-related fields. Within the limits of money available, the Housing Division is required to contract with the nonprofit collaboratives, governmental entities, community action agencies and other nonprofit corporations to identify neighborhoods that will qualify for funding for residential weatherization projects and award contracts for projects to promote energy efficiency through residential weatherization. Such contracts awarded must provide for employing the persons trained by the nonprofit collaborative for this purpose, paying those employees prevailing wages and offering the employees and their dependents health care insurance.

Section 10 of this bill requires the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada, within 90 days after the effective date of this bill, to each establish projects to weatherize and retrofit public buildings, facilities and structures in this State, including without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Section 10 further sets forth criteria for prioritizing those projects. Those entities are further required to enter into contracts for the projects as soon as practicable. Such contracts are required to provide that employees of the contractors and subcontractors on the project be paid prevailing wages, that the contractor or subcontractor employ a certain number of employees trained by a nonprofit cooperative and pay them prevailing wages and that the contractor offer employees on the project and their dependents health care insurance.

Section 11 of this bill provides that within the limits of money available, the State Public Works Board and the Division of State Parks of the State Department of Conservation and Natural Resources shall conduct studies to determine the feasibility of carrying out certain projects for providing alternative sources of energy in this State.

Section 12 of this bill requires the Labor Commissioner to adopt the job classifications and wage rates established by the Federal Government for certain jobs relating to residential weatherization and to enforce those job classifications and wage rates in the same manner that he enforces the labor laws and regulations of this State generally.

Section 13 of this bill requires the Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to report to the Interim Finance Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out

the purposes of this bill pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

WHEREAS, The unemployment rate in the State of Nevada is currently 9.1 percent and is expected to reach 11.4 percent sometime during 2009; and

WHEREAS, Many of Nevada's 128,000 unemployed residents have lost jobs in the construction and service sectors as the construction industry has faltered as a result of the mortgage foreclosure crisis and as the service industry, including gaming and tourism, has faltered as a result of the curtailment of discretionary spending on a national level; and

WHEREAS, One of the most effective methods of returning unemployed Nevadans to work is to create "green jobs" by developing new industries in this State in a manner that takes advantage of incentives offered by the Federal Government for job training, the promotion of energy efficiency and the promotion of the use of renewable energy; and

WHEREAS, An immediate step which may be taken to put Nevadans back to work is to coordinate job training with programs for weatherization and energy efficiency that are part of the recently enacted federal economic stimulus package; and

WHEREAS, In such a manner, unemployed Nevadans may learn new skills in fields such as energy auditing and the installation of energy efficient equipment and improvements, and then go to work performing such tasks as *performing energy audits,* weatherizing homes, retrofitting public buildings, helping lower-income Nevadans to save on their utility bills, and reducing energy costs for schools, government buildings and other public facilities; and

WHEREAS*, The performance of energy audits is a critical component of ensuring that the weatherization of homes results in meaningful reductions in energy costs to Nevadans; and*

WHEREAS*, The average energy auditor can perform 500 energy audits of residences per year; and*

WHEREAS*, The money available through the recently enacted federal economic stimulus package can be used to ensure that many Nevadans are trained in the skills necessary to perform energy audits thereby resulting in the performance of many thousands of energy audits of residences in Nevada; and*

WHEREAS, The Green Jobs Initiative can be accomplished through a public-private partnership that combines the resources of state agencies, local housing authorities, institutions of higher education, joint labor-management partnerships, apprenticeship programs and private contractors under the "umbrella" of a nonprofit collaborative; and

WHEREAS, The Green Jobs Initiative would function to establish programs to provide job training and outreach for the weatherization and retrofitting of buildings and facilities in northern Nevada, southern Nevada and rural Nevada; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *Sections 2 to 10, inclusive, of this act may be cited as the Green Jobs Initiative.*

Sec. 3. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Department" means the Department of Employment, Training and Rehabilitation.*

Sec. 5. *"Division" means the Housing Division of the Department of Business and Industry.*

Sec. 6. *1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waste heat;

(f) Waterpower; and

(g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 7. *"Retrofitting" means the alteration, improvement, modification, remodeling or renovation of a building, facility, residence or structure to make that building, facility, residence or structure more energy efficient.*

Sec. 8. *"Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.*

Sec. 9. *1. The Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall establish contractual relationships with one or more nonprofit collaboratives to carry out the State's mission of creating new jobs in the fields of energy efficiency and renewable energy by combining job training with weatherization, energy retrofit applications or the development of renewable energy plants.*

2. To qualify as a nonprofit collaborative for the purposes of this section, a nonprofit entity:

(a) Must enter into a written agreement relating to job training and career development activities with:

(1) A labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS; and

(2) A community college or another institution of higher education; and

(b) Must conduct or have the ability to conduct training programs in at least one of the three geographic regions of this State, including southern Nevada, northern Nevada and rural Nevada.

➥ *Such a nonprofit entity may also enter into a written agreement relating to job training and career development activities with a trade association which has an accredited job skills training program.*

3. Within the limits of money available to the Department for this purpose, the Department shall contract with one or more qualified nonprofit collaboratives to:

(a) Carry out programs for job training in fields relating to energy efficiency and the use of renewable energy.

(b) In concert with a labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS, develop apprenticeship programs to train laborers in skills related to:

(1) The implementation of energy efficiency measures.

(2) The use of renewable energy.

(3) Performing audits of the energy efficiency of buildings, facilities, residences and structures.

(4) The weatherization of buildings, facilities, residences and structures.

(5) The retrofitting of buildings, facilities, residences and structures.

(6) The construction and operation of centralized renewable energy plants.

(7) The manufacturing of components relating to work performed pursuant to subparagraphs (1) to (6), inclusive.

4. The job training described in subsection 3 must be sufficiently detailed to allow workers, as applicable, to perform:

(a) The services set forth in NRS 702.270.

(b) The services set forth in NRS 618.910 to 618.936, inclusive.

(c) Such other vocational or professional services, or both, as the Department deems appropriate.

5. Funding provided for the job training described in subsection 3:

(a) Must, to the extent money is available for the purpose, include the cost of tuition and supplies.

(b) May include a cost-of-living stipend which may or may not be in addition to any available unemployment compensation.

6. Within the limits of money available to the Division for the purpose, the Division shall contract with one or more governmental entities, community action agencies or nonprofit organizations, including, without limitation, qualified nonprofit collaboratives, to:

(a) Identify, in different regions of the State, neighborhoods that will qualify for funding for residential weatherization projects pursuant to federal programs focusing on residential weatherization; and

(b) Issue requests for proposals for contractors and award contracts for projects to promote energy efficiency through weatherization. Any such requests for proposals and contracts must include, without limitation:

(1) Provisions stipulating that all employees of the outside contractors who work on the project must be paid prevailing wages;

(2) Provisions requiring that each outside contractor:

(I) Employ on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent of the total workforce the contractor employs on the project; or

(II) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor, that the contractor cannot reasonably comply with the provisions of sub-subparagraph (I) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;

(3) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(4) A component that requires each contractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

7. The Department and the Division:

(a) Shall apply for and accept any grant, appropriation, allocation or other money available pursuant to:

(1) The Green Jobs Act of 2007, 29 U.S.C. § 2916(e); and

(2) The American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(b) May apply for and accept any other available gift, grant, appropriation or donation from any public or private source,

➥ to assist the Department and the Division in carrying out the provisions of this section.

8. The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section.

9. As used in this section, "community action agencies" means private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which are authorized to administer money received from federal, state, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Sec. 10. *1. The State Public Works Board shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:*

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act that is equal to or greater than

50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of section 9 of this act must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 11. Within limits of money available for the purpose:

1. The State Public Works Board shall conduct a study to determine the feasibility of using geothermal resources to provide heating to all or a portion of the Lovelock Correctional Center.

2. The Division of State Parks of the State Department of Conservation and Natural Resources shall conduct a study to determine the feasibility of:

(a) Constructing a hydroelectric generation unit at the existing dam on the South Fork Reservoir near Elko, Nevada.

(b) Constructing wind turbines in the vicinity of the South Fork Reservoir near Elko, Nevada.

Sec. 11.5. Upon the approval of any contract entered into by the Housing Division of the Department of Business and Industry pursuant to section 9 of this act, the State Board of Examiners shall immediately transmit a copy of the contract to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.

Sec. 12. For the purposes of the State in carrying out the provisions of section 9 of this act governing residential weatherization in compliance with section 1606 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and notwithstanding any other provision of state law:

1. The Labor Commissioner shall, on the effective date of this act, for each locality in this State for which the Labor Commissioner has not already established job classifications and wage rates pursuant to state law, adopt the job classifications and wage rates relating to residential weatherization established for that locality pursuant to the most current provisions of federal law or, if such job classifications and wage rates have not been established for that locality, the job classifications and wage rates for the closest locality, whether or not in Nevada, for which such job classifications and wage rates have been established, which are necessary to carry out the provisions of section 9 of this act;

2. The Labor Commissioner shall enforce the job classifications and wage rates adopted pursuant to subsection 1 in the same manner as the Labor Commissioner is authorized to enforce the labor laws and regulations of this State generally; and

3. The provisions of NRS 233B.040 to 233B.120, inclusive, do not apply to the adoption by the Labor Commissioner of the job classifications and wage rates required pursuant to subsection 1.

Sec. 13. *1.* The Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall report to the Interim Finance Committee as required by the Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this act pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

2. As part of each report required pursuant to subsection 1, the Housing Division of the Department of Business and Industry shall provide a written statement to the Interim Finance Committee concerning:

(a) The number of energy audits of residences performed pursuant to section 9 of this act for the period since the previous such report;

(b) The energy savings for residences resulting from the weatherization projects carried out pursuant to section 9 of this act; and

(c) Any other information required by the Interim Finance Committee.

Sec. 14. This act becomes effective upon passage and approval.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 152.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 218, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 742 and 881 of the Assembly be concurred in.

DAVID R. PARKS
TERRY CARE
RANDOLPH J. TOWNSEND
Senate Conference Committee

RUBEN J. KIHUEN
KELVIN ATKINSON
MELISSA WOODBURY
Assembly Conference Committee

Senator Parks moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 218.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Care, Amodei and Copening as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 55.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that vetoed Senate Bills Nos. 431, 433 and 429 of the 75th Session be made a Special Order of Business for Thursday, May 28, 2009, at 10 p.m.

Motion carried.

SPECIAL ORDERS OF THE DAY
VETO MESSAGES OF THE GOVERNOR

The hour of 10 p.m. having arrived, Vetoed Senate Bills 431, 433 and 429 of the 75th Session were considered.

Vetoed Senate Bill No. 431 of the 75th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 431, which is entitled:

AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State government for the fiscal years commencing on July 1, 2009, and ending on June 30, 2010, and beginning on July 1, 2010, and ending on June 30, 2011; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

Senate Bill 431 is the spending authorization bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 431.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Senators Horsford and Schneider.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

Senate Bill No. 431 together with the General Appropriation Act, the School Funding Bill and the Capital Improvement Projects Bill for the 2009-2011 biennium constitute the major budget bills for the ongoing operation of state government for the next two fiscal years and reflect the culmination of a considerable amount of work by the Senate Committee on Finance and the Assembly Committee on Ways and Means. Senate Bill No. 431 represents authority for agencies to collect and expend monies other than State General Funds and includes federal funds including the American Recovery and Reinvestment Act, gifts, grants, interagency transfers, service fees and other funds. The total authorized funding recommended for approval by the Legislature for ongoing operations is approximately $12 billion for the biennium, which includes approximately $608 million in Highway Fund appropriations.

The Senate Committee on Finance and the Assembly Committee on Ways and Means met independently and jointly and made numerous changes to the Governor's recommended budget. These changes are reflected in the Authorizations and Appropriation Acts which are considered separately. Due to the severity of the economic crisis faced by our State, the money committees were faced with many difficult decisions, working diligently to mitigate the impact of the budget reductions and ensure essential services provided by this State remain intact.

While this represents the authorization portion, there were more than $1 billion in cuts that were made and approved by the money committees that reflect the fact that we are in an economic crisis and were not able to fund all of the agencies at the current service levels including growth and inflation. That necessitated more than $1 billion in cuts. This reflects those decisions that were jointly made to fund the essential parts of state government.

SENATOR SCHNEIDER:

We often hear how state employees need to be cut. People say, teachers are state employees, they can be cut; University professors are state employees, they can be cut. At the same time, we hear from the Governor's supporters that we can do these cuts.

We have worked hard this Session to develop green-energy jobs. I have worked with the Majority Leader and Senator Townsend. We have put emphasis on green energy with our University System to create jobs and to enhance our University System to bring great professors here.

Because of what we have discussed, because of the Governor's rhetoric this year, two professors are leaving Las Vegas. One is a Yale graduate who is a professor of environmental studies at UNLV. We are consolidating programs at UNLV. He said he will not tolerate this anymore and has accepted a position to head the environmental-studies department at Mount Holyoake College in Massachusetts. We lost a very important person. His wife is a Smith College graduate. She was a productive citizen with a good job in Las Vegas. Now, we have lost them both.

Why are we making these cuts? We just keep cutting and cutting. We are enhancing green energy and working to bring in good professors, but then, we turn our backs on others, and they leave.

We are crashing our State, and we must override the Governor's veto. I will support this amendment and send a message to the Governor that we will not tolerate this behavior from his office.

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 431 of the 75th Session.

YEAS—19.

NAYS—Amodei, McGinness—2.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 433 of the 75th Session.

Bill read.

Governor's message stating his objections read.

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 433, which is entitled:

AN ACT relating to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; requiring employees of the State to take a certain number of days of unpaid furlough leave during the 2009-2011 biennium; providing exceptions to the furlough requirement; making appropriations from the State General Fund and State Highway Fund for the salaries of certain employees of the State; making certain appropriations contingent on specified projections of unappropriated balances in the State General Fund; and providing other matters properly relating thereto.

Senate Bill 433 is the state employee pay bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 433.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 433 of the 75th Session.

YEAS—18.

NAYS—Amodei, Cegavske, McGinness—3.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 429 of the 75th Session.

Bill read.

Governor's message stating his objections read.

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 429, which is entitled:

AN ACT relating to state financial administration; temporarily increasing the state business license fee; temporarily revising the rate of the payroll tax imposed on certain

businesses other than financial institutions; revising the provisions governing the calculation of governmental services taxes due annually for used vehicles and allocating a portion of the proceeds of the basic governmental services tax for 4 years to the State General Fund and thereafter to the State Highway Fund; temporarily increasing the rate of the Local School Support Tax; and providing other matters properly relating thereto.

This bill would enact historic and unprecedented tax increases in the midst of one of the most severe economic recessions ever experienced in Nevada. Our state has been one of the most severely impacted states in the Union during this economic downturn. Our unemployment rate has increased from 4.3% in 2006 to 10.6% today. Nevada's construction and tourism industries have seen dramatic slowdowns. Business big and small have laid off employees, reduced employees hours, and curtailed employee benefits in an effort to keep their doors open. Home values have spiraled downward, leaving many Nevadans facing foreclosures at worst and realizing negative home equities at best. Our state revenues correspondingly have been negatively impacted by percentages never before seen. We face a multi-billion dollar budget deficit. Under these circumstances our government finds itself at a crossroads and must choose whether it will live within its means or raise taxes to support continued government spending. I am disappointed that our Legislature chose the latter course of action.

I have repeatedly stated that just as Nevadans must live within their means, so must their government. I proposed a balanced budget that limited tax increases on hardworking Nevadans and avoided mass layoffs of state employees. I promised to call a special session to restore responsible government spending when the economy recovers. I am convinced that the action taken by the Legislature in Senate Bill 429 will prolong the economic recession in Nevada and will dissuade employers from retaining current employees today and hiring new employees tomorrow. Senate Bill 429 is not in the best interests of Nevadans and sets an extremely dangerous precedent about how our state government responds to economic recessions.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 429.

Sincerely,

JIM GIBBONS

Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 429 of the 75th Session.

YEAS—17.

NAYS—Amodei, Cegavske, McGinness, Washington—4.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 89, 184, 230, 265, 310, 312, 338, 355; Assembly Bills Nos. 3, 81, 279, 478, 480, 483, 522, 554; Assembly Joint Resolution No. 5.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Cartwright Elementary School: Hunter Wood, Amari Greenlee, Jan Dacanay, Jasmine Del Rosario, Mekaila Pellegrino, Jenny Han, Sierra Lazaro, Alayzia Ramos, Taraja Booker, Caitlyn Foreman, Cynthia Lee, Marissa Rodriguez,

Tiara Wilson, Grace Gehlen, Mariah Morris, Stephanie Campbell, Emma Wenthe, Kaelin Sumulong, Kayla Woodard, Saysha Palau, Michael Schofield, Adam Eisen, Chance Lazoff, Jessica Morgan, Madison Mildenberger, Brianna Werstein, Nick Reed, Brianna Martinez, Zach Ragusa, Jonah Ceniza, Ben Rifkin, Madison Drozd, Anna Benites, Molly Ragusa, Mari Nishimura, Ashlee Tewksbury, Lauren Suetos, Jason Kallus, Danner Dunston, Nick Bosnos, Anthony Woodson, Lauren Vanderploeg, Brianna Anderson, Madison Peaco, Ian Parvin, Xavier Cardenas, Angelo Venzon, Micco Estrada, Nathan Aune, Michael Johnston, Tiahna Divina, Sadie Conger, Vivian Brennan, Katie Camburn, Mary Gregorich, Maria Feil, Nichole Ragusa, Jacob Vargas, Tyler Osburn, Luke Schober, Rianna Baliza, Bryanna Narvaez, Natalie Gonzalez, Trevor Lyman, Brayden Mauermann, Jayson Kirchand-Patel, Brandon Gibbons, Austin Nesbitt, Brian Mainor, Brittney Mainor, Brandon Mainor, Rachel Mainor, Brenna Mainor, Jake Thomas, Tyler Gannon, Ciara Fung, Gianna Neimeier, Kayla Culpepper, Abbie Cox, Trevor Cox, Ben Thomas, Nason Tripp, Caden Thomas, Regan Thomas, Logan Smidt and Landon Smidt.

On request of Senator Hardy, the privilege of the floor of the Senate Chamber for this day was extended to the following students and chaperones from the Hummel Elementary School: Julian Aponte, Caytrin Barrone, Valan Boccadoro, Ray Dancel, Rizza Dancel, Noah Espinoza, Johnathan Gallagher, Joel Galvin, Triana Gando, Amani Hanach, George Hanach, Amar Hanach, Jordan Manago, Serena Martinez, Riley Musgrave, Angela Nunes, Nathan Pacyna, Liberty Pangilinan, Kealia Perrine, Shay Steffanich, Tyler Speir, Jesse Tabaczynski, Christopher Tan, Jennifer Ednacot, Marissa Warren; chaperones: Monica Langlands, Colleen Barrone, Charina Tan, Shelly Tabaczynski, Joseph Tague, Mary Steffanich, Helen Perrine, Haydee Pangilinan, Magdalena Pacyna, Julie Manago, Joseph Hanach and Evelyn Gando.

Senator Horsford moved that the Senate adjourn until Friday, May 29, 2009, at 11 a.m. and that it do so in memory of Rosetta Johnson as requested by Senator Raggio.

Motion carried.

Senate adjourned at 10:16 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate